

BOX ELDER COUNTY PERSONNEL POLICIES AND PROCEDURES

9.	FAIR LABOR STANDARDS ACT
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- 9-1.** It is the policy of Box Elder County to comply with the Fair Labor Standard Act of 1938, as amended (FLSA). Each Elected Official/Department Head and Supervisor is responsible for ensuring compliance with the act in his or her department.

- 9-2.** Not all employees of local governments are affected by the Fair Labor Standards Act (FLSA). Certain employees simply are not covered by the act (i.e., non-covered employees). Other employees, while covered by the FLSA, are exempted by specific provisions of the act (i.e., exempt employees). Non-covered employees include elected officials and their personal staff, policy-making appointees, legal advisors, bona fide volunteers, independent contractors, prisoners, and certain trainees.

There are two types of employment classes in the County relative to FLSA requirements, exempt and non-exempt. Non-exempt employees are subject to FLSA requirements. Exempt employees mean those employees who are covered by the FLSA but are exempted from the minimum wage and overtime provisions of the act.

Exempt employees are generally those in an executive, administrative, or professional capacity. Exempt employees include the following positions: Chief Deputy, Department Head, Law Enforcement Lieutenant, and Deputy County Attorneys.

Exempt employees are covered by FLSA record keeping requirements and must submit time records for the purpose of showing utilization of vacation and sick leave. No overtime compensation will be granted to department heads, elected officials, chief deputies, and other employees specifically identified as FLSA exempt.

9-3. OVERTIME

Any time worked in excess of forty (40) hours in any one work week will be considered overtime for non-exempt employees. Law enforcement, Correction Personnel and Fire Personnel will be deemed to have worked overtime when the time worked in a pay period (two weeks) exceeds 86 hours as allowed by the FLSA 7k exemption.

It is the County's policy to discourage the use of overtime and to keep overtime to the barest minimum commensurate with the County's best interests. When overtime is necessary, compensatory time should be accrued whenever possible to minimize budgetary impact. Supervisory personnel should organize their

department work load to minimize overtime and to strive to utilize compensatory time within 60 days of accrual.

It shall be the regular practice of the County to pay overtime in the pay period in which it is earned. However, an employee may be allowed to accumulate up to a maximum of 40 hours compensatory time. When an employee has an accumulation of 40 hours of comp time, the supervisor shall make every effort to have the employee work a flexible schedule and require the employee to utilize comp time at the supervisor's discretion, normally within 60 days of accrual.

Determination as to whether to pay overtime or grant compensatory time, within limits of FLSA, shall rest with the elected official or department head. An employee who requests compensatory time shall be expected to use such time within the Calendar year earned.

9-4. APPROVAL

All overtime worked must be specifically assigned by an employee's supervisor and approved in advance. (The only exceptions allowed are for Sheriff's officers in bona fide emergency situations or when overtime is unavoidable). Time cards should be accurate records of all time worked and leave time used.

9-5. CALCULATING OVERTIME

Only hours actually worked in any one work week (86 per pay period for law enforcement, corrections and fire department employees) will be used in determining overtime. Vacation, sick leave, holidays, comp time and other similar leaves will not be considered hours worked for calculating overtime at either straight time or time and a half.

9-6. COMPENSATION

Only those employees identified as non-exempt and qualified under the overtime provisions of the Fair Labor Standards Act are eligible to be paid or earn comp time at the rate of time and one-half the regular rate of pay and compensation time accrued at one-and-one-half times the number of hours worked over 40 in a week and the eighty-six (86) Sheriff's Deputy and Corrections Officer work period. The decision to be paid overtime or earn compensation time shall be made at the direction of the Department Head in consultation with the employee.

9-7. ON-CALL PAY

Where the nature of an employee's work requires that he or she be available for work on-call during a period of off work time, on-call compensation shall be paid at a rate determined by the county commission.

The time is considered on-call where the employee is able to move freely on personal matters, but is required to be available for call to duty. On-call time shall not be recorded as hours worked but on-call pay must be designated on the PA form. All time actually worked during the on-call period shall be recorded as hours worked.

Individuals will be considered on an on-call status under the following circumstances:

1. They are able to carry out personal activities, but are designated by the Elected Official/Department Head to be on-call by Personnel Action.
2. They are subject to discipline for not responding in the required time (30 minutes response time to Sheriff's office) when on-call.

9-8. NIGHT TIME DIFFERENTIAL

The payment of nighttime differential can assist the county in attracting employees to those shifts normally considered less desirable, because they occur outside of normal working hours.

Additional compensation in the form of night differential pay may, at the discretion of the County Commission, be provided to those employees who are assigned the designated graveyard shift. Designated graveyard hours will normally be from 10:00 p.m. to 6:00 a.m.

For the designated graveyard shift, the employee will receive an additional 50 cents per hour as night differential. This will be reported on the time card as other pay/night differential. It is the employee's responsibility to show night differential on time card.

Any eligible employee called back shall receive a minimum of one (1) hour straight time pay. If one (1) hour or more is worked only the actual time worked is paid at straight time unless the requirements for overtime are met; then all hours shall be paid at one and one half (1 ½) times the regular rate.

Vacation, sick leave, and comp time shall not be used to obtain overtime (hours over 40 per week for public employees and hours over 86 per pay period for Public Safety employees). Overtime shall only be paid for actual hours worked.

If County employees work a compensated second job for another County agency then all hours worked by both (all) agencies during the standard work week shall be considered jointly for purposes of calculating overtime pay.

County employees may not volunteer to perform the same services for the County they provide on a regular basis as a paid employee. They may, however, provide such services for a different government employer.

9-9. TERMINATION

FLSA eligible employees covered under the overtime provisions of the Fair Labor Standards Act who terminate will receive the cash value of the accumulated compensatory time.

9-10. RECORDKEEPING

Each non-exempt employee is responsible for reporting all time worked, night differential, on-call pay, leave used, compensatory time earned and used on time sheets. Time cards should be an accurate record of work history.

The time card must reflect the following information:

1. Full name of employee
2. Time of day work week begins and ends
3. A document signed by the employee verifying hours worked
4. Signature of supervisor verifying hours reported are correct

Falsification of time card will result in disciplinary action up to and including termination.

- 9-11.** A declared disaster may modify the standard procedures outlined above but the County will comply with FLSA regulations.