**Leadership Development Program**

***Leave Policies: Scheduling, Overtime, Flextime, and Leave***

Organizational Development and Training

Colorado Department of Labor and Employment

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Work Policies and General Expectations

CDLE has multiple policies that cover the expectations for workplace behaviors, scheduling, and taking time off. Supervisors are expected to have knowledge of the current policies so they are consistently and equitably applied for all employees.

All CDLE policies are available on the intranet. Go to the **Resources** tab and click on **SPPs**.

Information contained in this training document should not be used as a substitute for official personnel rules or departmental policies.

Current Policies

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| **Leave and Scheduling Policies Quick Reference** |
| **Policy Title** | **SPP Number** | **Updated** |
| State Personnel Rules Chapter 5 – Time Off |  | 01/01/14 |
| Work Policies | SPP-0095 | 09/07/11 |
| Administrative Leave, Leave Without Pay, and Other Employer Provided Leave | SPP-0111 | 06/10/14 |
| Alternate Holiday | SPP-0099 | 09/19/11 |
| Snow and Other Inclement Weather | SPP-0091 | 03/24/11 |
| Flextime | SPP-0110 | 01/23/13 |
| Time, Attendance, Leave Tracking - Kronos | SPP-0073 | 12/29/08 |
| Shift Differential | SPP-0027 | 04/07/06 |
| FLSA Exemption Procedures | SPP-0004 | 04/14/95 |
| Workers' Compensation Claims and Injury Leave | SPP-0015 | 02/08/05 |
| FML - Family Medical Leave | SPP-0081 | 04/01/10 |
| FML - Supervisor's Guide - Family/Medical Leave | SP-200 | 02/16/00 |
| Leave Transfer / Leave Bank Program | SPP-0037 | 10/14/08 |
| Voluntary Furlough | SPP-0092 | 04/14/14 |
| Teleworking | SPP-0112 | 01/23/13 |
| Teleworking Remote Access & Security | SPP-0008 | 08/16/04 |
| IT Security & Usage | SPP-0106 | 03/20/12 |

Scheduling, Hours & Work Weeks

Hours of Operation

* Office hours are 8:00 am – 5:00 pm, Monday through Friday.
* Work schedules of employees must ensure adequate coverage during normal business hours.

Scheduling & Hours

Employees must be at work and working by their scheduled start times. Adequate coverage and performance of job duties will ultimately determine work schedules.

* Work schedules are assigned at the discretion of the supervisor.
* Voicemail and email notifications must be posted by employees for absences longer than one day; more frequently as appropriate.
* Studies conducted indicate that productivity declines significantly after working ten hours. Therefore, scheduled employment should not exceed ten hours a day.

Workweek Definitions

The United States Department of Labor’s (“USDOL’s”) regulations implementing the Fair Labor Standards Act provide that a workweek is a “fixed and regularly recurring period of 168 hours – seven consecutive 24-hour periods.”

* The Act takes a single workweek as its standard and does not permit averaging of hours over two or more weeks.
* For example, an employee who works 30 hours one week and 50 hours the next, must receive overtime pay for the hours worked beyond 40 in the second week, even though the average number of hours worked in the two weeks is 40.

Standard Workweek

A standard workweek shall consist of 5 days per week, 8 hours per day. Starting and ending times may vary.

* Any other work schedule which falls outside the definition of the standard workweek will be considered a flextime schedule.
* A workweek begins on Friday at midnight and ends at 11:59pm the following Friday, unless a flextime schedule is granted.



Flextime Schedules

Flextime schedules are any schedules that do not fall under the definition of a standard workweek.

* Flextime schedules will be in effect for a minimum of three months.
* Flextime schedules must begin at the beginning of a payroll month, and must be submitted on the “KRONOS Schedule Change Form.”
* Flextime is a privilege, not a right. The option to have a flex schedule is at the discretion of the supervisor and appointing authority, as long as it does not conflict with business or customer service requirements.
* Both the supervisor and appointing authority must approve flextime schedules.
* Employees on a flextime schedule are not allowed to telework. If business needs require both flextime and teleworking, a formal request must be made to the appointing authority for approval.

**Two typical flextime schedules are:**

* **Four 10-Hour Days**
	+ Under this flextime schedule, an employee may work up to 10 hours per day.
	+ During a workweek with an observed holiday, annual leave must be taken for the difference between the scheduled hours and the 8 hours of holiday leave allowed by rules.
	+ For any administrative or other employer-provided leave such as bereavement leave, annual leave must be taken for the difference between the scheduled hours and the 8 hours of administrative leave allowed by rules.
* **Two-Week Cycle (a.k.a. Compressed Schedule)**
	+ The employee works four 9-hours days a week plus one day split between the current and succeeding workweek.
	+ The employee’s workweek begins at noon or 1:00pm on the same day each week.
	+ The workweek consists of 7 consecutive 24-hour periods. The workweek “cycle” is for two-weeks.
	+ Employee cannot change the flex day without prior coordination with the payroll office because it would result in a violation of the FLSA.
	+ Employees on this flextime schedule are not allowed to work overtime. They must revert to a standard schedule if overtime is needed or desired.

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| **Example of a 2-Week Cycle** |
| **Week #1** **Total 40 Hours** | Monday | 9 hours |
| Tuesday | 9 hours |
| Wednesday | 9 hours |
| Thursday | 9 hours |
| Friday | 4 hours (8:00 am – noon) |
| 4 hours (1:00 pm – 5:00 pm) |
| **Week #2****Total 40 Hours** | Monday | 9 hours |
| Tuesday | 9 hours |
| Wednesday | 9 hours |
| Thursday | 9 hours |
| Friday | Flex Day (Day Off) |
| **Week #1 ends at noon on Friday****Week #2 starts at 1:00 pm on Friday** |

Fair Labor Standards Act (FLSA)

FLSA Overview

The Fair Labor Standards Act (FLSA) provides minimum wage, overtime pay, recordkeeping, and youth employment standards affecting employees in the private sector and in Federal, State, and local governments.

Information on the FLSA can be found at: <http://www.dol.gov/compliance/laws/comp-flsa.htm>.

FLSA Overtime Exemptions

Some employees are exempt from the overtime pay provisions of FLSA. Because exemptions are narrowly defined under the FLSA, CDLE has carefully checked the exact terms and conditions for each position against the official Position Description (PD) and is reflected in the Employee Data System (EDS). Exemptions are based on position duties, not individuals.

In general, executive, administrative, and professional employees may be exempt from overtime pay provisions. This includes employees who have management as their primary duty.

* **Exempt** – Exempt from paid overtime provisions.
* **Non-Exempt** – Must be paid overtime beyond 40 hours per week.
* SPP-0004 FLSA Exemption Procedures outlines the process to follow to request an FLSA exemption status.

Overtime Pay

Overtime must be paid at a rate of at least one and one-half times the employee’s regular rate of pay for each hour worked in a workweek in excess of the maximum allowable. In general, this is based on a maximum 40-hour workweek applicable to most covered non-exempt employees.

* Non-exempt employees may not work any overtime without prior supervisory approval.
* Employees who are determined to be eligible for overtime and are anticipated to work overtime are not allowed to be on a flextime schedule.
* Overtime is paid per the reports generated from Kronos, whether or not the overtime hours were pre-approved. Corrective or disciplinary action can be taken for working unapproved overtime.
* Overtime must be paid for hours worked in excess of 40 hours in a standard workweek.

**Rate Calculation:**

* Part-time employees are paid hourly; overtime pay is one and one-half times the hourly rate.
* Full-time employees are paid monthly; the hourly rate is calculated by taking the monthly salary times 12 months per year, divided by 2,080 hours worked per year. Overtime pay is one and one-half times the hourly rate.

Schedule Adjustments

* There is no reference to “makeup time” in rules or policy. If a person misses work, they may be granted a “schedule adjustment”.
* Schedule adjustments must be approved in advance by a supervisor.
* Compensatory time, or Comp Time, is not allowed under CDLE policy.
	+ If an employee works fewer than their scheduled hours during a work week, they must submit a leave request.
	+ If an employee works more than 40 hours during a work week, they must be paid overtime if they are a non-exempt employee.
	+ Time cannot be “saved” and used or credited towards another work week.
* **Schedule adjustments are not allowed for absences related to Family Medical Leave (FML).**



Meal Periods

* Employees must be completely relieved of all duties and permitted to pursue personal activities to qualify as a non-work, uncompensated period of time.
* If business needs require an “on-duty” meal while performing duties, they must be fully paid for the “on-duty” meal period.

Breaks & Rest Periods

* Employees are not “entitled” to morning and afternoon breaks; this is considered paid work time, but is beneficial to provide a rest to ensure an employee’s highest productivity.
* If employee chooses not to take a break, the time is lost and cannot be accumulated or used for any other purpose.
* Breaks cannot be taken at the start or end of the day, nor added to lunch periods.

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| --- | --- | --- | --- | --- |
|  | **FLSA** | **Colorado Wage Order** | **DPA** | **CDLE Policy** |
| **BREAKS** |  |  |  |  |
| **MEALS** |  |  |  |  |

Kronos

KRONOS Workforce Timekeeper (Kronos) is CDLE’s official time, attendance and leave tracking system. The Kronos system has been programmed and configured for compliance with FLSA and State personnel rules.

* Employees must enter their time worked and any leave by the end of each workweek. The employee’s time sheet must always reflect the actual days and hours worked (for example, if an employee works four hours on Saturday and only four hours on the following Friday, the time sheet should reflect four hours on Saturday and four hours on Friday).
* Employees may enter personal annual or sick leave only. All other leave must be posted by the supervisor or designated leave keeper.
* Employees must post a “comment” in Kronos for each day when teleworking.
* If an employee has entered overtime hours worked, it must be paid. Your review ensures that proper record keeping.
* All timesheets requires the approval of the employee and the supervisor.
* A supervisor is responsible for the accuracy of Kronos. Be sure to review the entries; don’t just “rubber stamp” the approval.

**Kronos provides for multiple styles of automated timesheets.**

* **Hourly View** – typically pre-loaded with default schedules for employees that are non-exempt (eligible for overtime) and who work non-fluctuating schedules.
	+ Bi-weekly paid employees will not have a defined work schedule pre-loaded. These employees often work fluctuating schedules on a part-time basis. Meal periods must be entered as well as arrival & departure times.
* **Time Stamp View** – typically used for employees that are non-exempt (eligible for overtime) and work irregular schedules or need to accurately record the time of arrival or departure.
* **Project View** – typically used for employees that are exempt (such as supervisors) where time is recorded by cost element rather than their arrival/departure times.



Absences and Leave

Tardiness

* Frequent tardiness is considered unauthorized absences and may lead to work schedule being changed and and/or corrective or disciplinary action taken.

Leave Usage

* Requests should be submitted at least 10 calendar days in advance.
* Leave is credited on the last day of the month in which it is earned and is available for use on the first day of the next month.
* Appointing Authority may establish periods when no annual leave may be taken.
* Unapproved leave taken may be charged as LWOP.
* Forfeiture of leave as a disciplinary action or condition of promotion, demotion, or transfer is not allowed.

Annual Leave

* Annual leave is for an employee’s personal needs. Requests should be submitted at least 10 calendar days in advance.
* The amount of leave accrued is dependent on the years of service and the number of hours worked per week.

**For full time employees:**

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| **Years of Service** | **Hours per Month** | **Maximum Accrual** |
| 1-5 | 8 | 192 hours |
| 6-10 | 10 | 240 hours |
| 11-15 | 12 | 288 hours |
| 16+ | 14 | 336 hours |

* Unused annual leave in excess of the maximum accrual at the end of the fiscal year is forfeited.
* LWOP shall be charged if both annual and sick leave are exhausted.

Sick Leave

* Sick leave is a benefit not required by federal or state law.
* Sick leave may be used for health reasons only for:
	+ The employee
	+ The employee’s child under the age of 18
	+ The employee’s adult child who is disabled
	+ The employee’s parent, spouse, or injured military service member (per rule 5-20), legal dependent, or
	+ A person in the employee’s household for whom the employee is the primary care giver.
* A Medical Certificate form must be provided for an absence of more than 3 consecutive working days for any health reason, per personnel rule 5-5B.
* A Medical Certificate form may be required for absences of less than 3 days if abuse is suspected.
* Failure to provide the necessary form may result in denial of leave and possible corrective or disciplinary action including the denial of leave and posting of LWOP.
* Sick leave is accrued at a rate of 6.66 hours per month.

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| Years of Service | Hours per Month | Maximum Accrual |
| All | 6.66 | 360 hours (hired after 07/01/88) |

* Unused leave in excess of the maximum accrual at the end of the fiscal year is converted from sick to annual on a 5:1 ratio.
* Sick leave is not paid out at separation, unless separation is due to retirement. Then sick leave is paid out on a 4:1 ratio.
* Annual leave shall be charged if sick leave is exhausted.



Family Sick Leave

* This sick leave designation is used when the illness or care is for a person other than the employee as defined in personnel rule 5-5.
* Leave used comes out of the employee’s sick leave bank.

FML Leave

The purpose of the FMLA is to balance work and family needs and promote family stability and economic security. It is based on federal law; the Family and Medical Leave Act of 1993. The Act provides job and health benefit protection during absences caused by serious medical conditions for employees, their child, parent, or spouse.

* FML is a leave designation added on to sick, annual, or LWOP.
* FML must be posted be the supervisor or designated leave keeper in Kronos.
* An employee may not have a schedule adjustment or makeup any time missed due to a FML related absence. Even if the employee would prefer to work, this can later be viewed as retaliation or limitation of the right to use FML protected leave.



Holiday Leave

Employees on the payroll when the holiday is observed are granted eight hours of paid holiday leave (prorated for part-time work or unpaid leave in the month) to observe each legal holiday designated by law, the Governor, or the President.

* If an employee is scheduled to work more than 8 hours on a day which is an observed holiday, annual leave must be taken for the difference between the scheduled hours and the hours of leave. The supervisor may allow the employee to work additional hour(s) on another day of the same predefined workweek to avoid the need to use annual leave.
* If an employee’s scheduled day off is on an observed holiday, the holiday must be taken the previous or next workday.
	+ Holiday on Monday
		- Normal flex day is Monday, flex day remains on Monday
		- Holiday is posted on Tuesday instead of Monday
	+ Holiday on Friday
		- Normal flex day is Friday, flex day remains on Friday
		- Holiday is posted on Thursday instead of Friday.



Alternate Holiday

Appointing authorities may designate alternative holiday schedules for the fiscal year. At CDLE, this is outlined in SPP-0099 Alternate Holiday.

* Employee may work the Columbus holiday in exchange for taking off the Friday after Thanksgiving.
* Designation of the alternate holiday must be made by the end of September.
* The policy does not apply to employees in county run workforce centers who will observe the holiday schedule set by county management.
* An employee who is ill on an alternate holiday is not granted a different holiday on a future date just as an employee who is ill on a statutory holiday (e.g. Christmas) is charged holiday leave for the holiday, not sick leave.

Administrative Leave

Multiple types of administrative leave are provided by the state and CDLE. Administrative leave is outlined in SPP-0111 *Administrative Leave, Leave Without Pay, and Other Employer-Provided Leave* policy.

* No more than eight hours per day may be granted for administrative or other employer-provided leave. This is also true for a flextime schedule.
* If an employee is scheduled to work more than 8 hours on a day which is an observed holiday, or an employee is on bereavement leave, jury leave or other approved employer- provided leave; annual leave must be taken for the difference between the scheduled hours and the hours of leave.

Snow & Inclement Weather Leave

* Provisions are outlined in SPP-0091.
* The Executive Director (or designee) will make the official call on closings and delayed starts.
* Employees are expected to check the inclement weather line and media outlets for the latest updates.
	+ Inclement weather line phone number is (303) 352-1623.
	+ Updates may be obtained via 9News in Denver.
* Employees who do not report to work will be charged annual leave *unless* the use of Admin leave is authorized by the Governor or Executive Director (due to closure).
* Employee already on previously approved leave cannot substitute Inclement Weather Admin leave.
* Employees who report to work at a facility prior to an official closure are not credited with compensatory time or overtime.
* A two-hour grace period may be granted and leave will not be charged.
	+ If an employee does not arrive at work for the full day, they will be charged annual leave for their full work day. Credit is not given for the two-hour grace period.

Bereavement Leave

* Up to 40 hours allowed per occurrence, up to 8 hours per work day.
* Number of hours depends on the relationship and the significance of the impact the loss has on the employee.
* Used for grieving and attending services.
* Cannot be used for business such as settling an estate.
* Documentation is required.

Jury Leave

* Substantiation of jury duty is required.
* Permanent employees - leave granted for period employee is required to serve, up to 8 hours per work day.
* Temporary employees – - leave granted for up to 3 working days when jury duty occurs during days they are normally scheduled to work, up to 8 hours per work day.

Tests & Interviews

* Up to 12 hours per fiscal year for employees with 12 months of state service.
* Used only for jobs within the state.
* Granted for tests and interviews that are administered during the employee’s normal scheduled work hours. Test and travel time may be included.
* Cannot be used to complete applications or to prepare for or complete exam material.

School & Community Volunteer Service

* Up to 12 hours per fiscal year for employees with 12 months of state service.
* May be used to attend or participate in their children’s school events, activities, or conferences that are sanctioned and sponsored by the child’s school. For grades K-12 only.
* May be used to perform a volunteer activity that benefits the community.
* Documentation is required. Request form is on the intranet.

Military Training Leave & Military Leave

* Can be used by probationary or certified employees.
* Used by employees when they are called to active duty for training, whether voluntary or involuntary. Paid for up to 15 paid workdays.
* Used by employees when they are called to active duty, whether voluntary or involuntary.
* Documentation is required (official military orders from the Military/ Naval unit or organization to which the employee is assigned.).

Victim Protection Leave

* This is an unpaid leave designation
* Granted to employees with one year of state service
* Up to 24 hours (prorated for part-time employees) per fiscal year for victims of stalking, sexual assault, domestic violence or abuse

Leave Without Pay (LWOP)

The department strongly discourages all employees from using LWOP but understands there are circumstances beyond the employee’s control that may necessitate such a request. For example, a new employee who has not had time to accrue a sufficient leave balance who suffers a serious illness or injury may need to request LWOP after exhausting their available sick and annual leave.

Any LWOP will be based upon individual circumstances and primary consideration will be given to the business needs of the unit within which the employee works. As such, it is conceivable that LWOP cannot be approved due to the workload of the employee's unit.

* Posted after other available paid leave is exhausted.
* An employee requesting LWOP must submit a leave request form accompanied by a written explanation of the reason(s) for the request .
	+ Supervisor must recommend to the appointing authority if it should be approved.
* Discretionary LWOP - a request for discretionary time off must be made at least 72 hours prior to the need for the leave.
	+ Requests made less than 72 hours in advance may be delayed or disapproved based solely on the discretion of the Appointing Authority.
	+ Failure to provide advance notice of any discretionary LWOP request is subject to disciplinary action up to and including termination.
* Only the appointing authority may approve LWOP.
* The first instance of unapproved LWOP will result in the employee receiving a formal written corrective action from the appointing authority.
* A second instance of unapproved LWOP within the next 12 months will result in a Rule 6-10 pre-disciplinary meeting being held with the appointing authority who may impose a disciplinary action up to and including termination of employment. Situations involving FMLA or approved Short Term Disability are not included in this provision.
* Voluntary Furlough Leave Without Pay - Employees earn sick and annual leave and continue to receive service credit as if the furlough had not occurred.
* **ALL LWOP MUST BE POSTED DAILY IN KRONOS.**

SPP-0037 Leave Transfer / Leave Bank Program

**Leave Transfer (Leave Sharing)** allows the transfer of annual leave between permanent state employees. The program is intended to provide some income protection when the employee would be absent from work for a prolonged period of time and has exhausted all annual and sick leave. It is not intended to cover foreseeable situations that could have been prevented or minimized by planning or action on the part of the employee, including cases of abusive leave usage, or for short-term financial setbacks or inconveniences.

**The Leave Bank** is an account containing annual leave donated by employees.

* Employees may donate annual leave hours to Leave Transfer or the Leave Bank to be used to assist employees who have exhausted their own leave as a result of catastrophic illness, injury or event.
* A minimum of 4 hours annual leave is requested.

**Qualifying Events:**

* A catastrophic illness or injury (either personally or by an immediate family member). This will cover catastrophic illness or injury that poses a direct threat to life, e.g. cancer, serious accident, major heart attack, etc.
	+ Normal pregnancy, common illness, and illness/injury covered by short-term disability, PERA or Worker’s Compensation are excluded.
* A “life altering” catastrophic event/emergency such as wildfires, floods, tornadoes, and other natural disasters, including employees who suffer loss of life in their family or substantial loss or complete destruction of their home as a consequence of such events, or who are serving as first-responders to such tragedies.
	+ Examples of a “life-altering” event would be kidnapping, murder, injury assault, similar sudden disability or death of a family member, destruction of residence.

**Transferred Leave:**

* An employee with a minimum of one year of permanent state service is eligible to apply for use of transferred leave.
* Application may be made for personal or immediate family member’s need.
* For purpose of the leave transfer/leave bank program, family members are defined as children under the age of 18, an adult child incapable of self-care, parent, spouse, legal dependent, or a person in the household for whom the employee is the primary care giver.
* Leave transfers will terminate on eligibility date for short-term disability.
* Application must be made on the appropriate form and approved by both the supervisor and the appointing authority. Application does not guarantee approval.

Exhaustion of Leave and Administrative Discharge

Personnel Rule 5-6. If an employee has exhausted all credited paid leave and is unable to return to work, unpaid leave may be granted or the employee may be administratively discharged by written notice following a good faith effort to communicate with the employee. Administrative discharge applies only to exhaustion of leave. (5/1/10)

1. The notice of administrative discharge must inform the employee of appeal rights and the need to contact the employee’s retirement plan on eligibility for retirement.
2. An employee cannot be administratively discharged if FML or short-term disability leave (includes the 30-day waiting period) apply, or if the employee is a qualified individual with a disability under the ADA who can reasonably be accommodated without undue hardship.
3. A certified employee who has been discharged under this rule and subsequently recovers has reinstatement privileges.

SPP-0095 Work Policies Miscellaneous

* Employees are expected to treat each other with respect & professionalism per SPP-0095 Work Policies
* Strong or offensive scents that are detrimental to the work unit should not be worn, per SPP-0095 Work Policies
* Telephone usage expectations are outlined in SPP-0095 Work Policies
	+ Personal calls should be kept to a minimum
	+ Cannot use directory assistance for personal reasons
	+ Employee must reimburse the state for any personal long distance calls (even in the rare, extraordinary circumstance that one needs to be made)
	+ Telephone etiquette includes how to answer the phone, need to pick up in 3-4 rings, proper ways to transfer a call, and general philosophy on interacting with customers over the telephone. This policy may be used to reinforce performance issues related to telephone etiquette.