



West Virginia Department of Transportation Policy: **Attendance, Leave, and Overtime**

Issued by the Secretary of Transportation

Policy No: DOT 3.10

Issue Date: 09/01/2003

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1.0 PURPOSE

The purpose of this policy is to establish the attendance, leave, and overtime policy for the West Virginia Department of Transportation (WVDOT), excluding the Parkways Authority. The WV Division of Personnel rules, policies, and guidelines do not apply to WVDOT agencies. This policy discusses WVDOT guidelines associated with work schedules and attendance, overtime classification and pay, and both authorized and unauthorized leave policies. In any case, where questions or confusion arise, contact the Human Resources (HR) Division for further guidance.

2.0 SCOPE

This policy applies to all WVDOT employees, except for Parkways Authority employees, since all employees must abide by attendance, leave, and overtime guidelines. The WVDOT employs several categories of personnel with varying degrees of eligibility for leave and overtime. This policy applies to permanent employees unless otherwise provided. For a quick reference to determine whether an employee is eligible for a certain kind of leave or overtime compensation, see Appendix A, at the end of this Chapter.

3.0 DEFINITIONS

- 3.1 **Agency Head**: The chief manager of the agency i.e., the Commissioner, Director, etc.
- 3.2 **CFR**: Code of Federal Regulations.
- 3.3 **Covered Employees**: Employees that work under the rules and policies of the state merit selection system, also formerly known as civil service under the WV Division of Personnel.
- 3.4 **DM or DD**: District Manager or Division Director.
- 3.5 **Excess Hours**: Work hours paid in excess of 40 in a workweek.
- 3.6 **Exempt Employees**: Employees that are full-time and are not eligible for time and a half overtime pay for more than 40 hours of work in a week.
- 3.7 **Exempt Overtime**: Not entitled to premium overtime compensation under the Fair Labor Standards Act.
- 3.8 **FLSA**: Fair Labor Standards Act.
- 3.9 **Full-time Employees**: WVDOT employees report 2,080 hours per year.
- 3.10 **Hours Worked**: Hours during which an employee is actually engaging in work, meal periods, or leave time.

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- 3.11 **Immediate Supervisor:** The employee's supervisor, normally a section manager. For Highways, this includes the County Highway Administrators.
- 3.12 **Noncovered Employees:** Employees who are subject to the policies of the state merit selection system, also formerly known as civil service under the WV Division of Personnel.
- 3.13 **Nonexempt Employees:** Employees who are eligible for time and a half overtime.
- 3.14 **Nonexempt Overtime:** Entitled to premium overtime compensation under the Fair Labor Standards Act.
- 3.15 **Organization Manager:** The next level manager of the employee's office or division, normally the chief manager of an office, division, or district within the agency.
- 3.16 **Overtime:** Approved hours actually worked in excess of 40 hours for a workweek.
- 3.17 **Part-time Employees:** WVDOT employees that report less than 40 hours per week but are required to work a weekly schedule or hours of which equal at least 1,040 hours per year.
- 3.18 **HR/Payroll Representative:** The person in a section or organization who is responsible for handling employee benefit matters and processing of various personnel-related forms. The entering of employees' time into the computer system from Form DOT-12s may also be a duty.
- 3.19 **Permanent Employees:** Employees that are hired for no specific duration of employment.
- 3.20 **Premium Overtime:** Payment for hours actually worked that exceed 40 in a workweek, computed at the employee's standard hourly rate, times one-and-one-half.
- 3.21 **Probationary Period of Employment:** The first six calendar months of employment for permanent employees hired from a WVDOT certified register.
- 3.22 **Provisional Employees:** Employees that are hired to fill a position pending the administration of a competitive examination and the establishment of a WVDOT register for that position, after which they may apply for the position.
- 3.23 **Regular Overtime Hours:** Hours actually worked by agency-defined exempt employees that exceed 40 in a workweek, computed at the employee's standard hourly rate.
- 3.24 **SRIC:** Snow Removal and Ice Control.
- 3.25 **Student Employees:** College students that are hired for a specific period during the summer with no extension possible.

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3.26 **TTD**: Temporary Total Disability under Workers' Compensation Insurance.

4.0 WORK SCHEDULES AND ATTENDANCE

4.1 NORMAL WORK SCHEDULES OF WVDOT AGENCIES

It is the intent of the WVDOT to report 40 hours of work, leave or any combination thereof each week for all full-time employees. Normal work schedules vary from agency to agency, as follows:

- A. Division of Highways (DOH): 7:30 a.m. to 4:00 p.m., Monday through Friday, with ½ hour unpaid lunch.
- B. Division of Motor Vehicles (DMV): 8:30 a.m. to 4:30 p.m., Monday through Friday, with ½ hour paid lunch.
- C. Division of Multimodal Transportation Facilities: 8:00 a.m. to 4:00 p.m., Monday through Friday, with ½ hour paid lunch.

4.2 BREAKS

- A. The 30 minute lunch break may need to be staggered to provide coverage of phones and other essential services. While considering the preferences of the employees involved; appropriate supervisors will prescribe staggered lunch breaks when necessary.
- B. Employees may not work lunch breaks to make up for absences during the day without specific authorization from their organization managers. No such arrangement is permissible on a regular basis.
- C. Employees may take two 15 minute breaks for refreshment or other personal matters, one in the morning and one in the afternoon. Break periods cannot be accumulated, used to shorten a workday, or used to extend a lunch period.
- D. DOH Transportation Workers treating the roads during SRIC will receive ½ hour paid lunch.

4.3 ALTERNATIVE SCHEDULING POLICIES

A. **Permanent**

- 1. The Agency Head or his or her designee may establish a permanent or seasonal workweek schedule that is different from the agency's normal schedule, provided that:
 - full-time employees will have 40 scheduled reporting hours,

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- it is established to better serve the organization's objectives, and
 - it is applied to whichever employees and whatever number of employees as is necessary to meet the objective of the alternate schedule, and it specifies the day and time that the workweek begins and ends, and the time that each work shift begins and ends.
2. Within the WVDOT, District Managers, Division Directors, or other appropriate managers may grant individual employees' permission to alter their start and end time by one (1) hour per day (e.g., for DOH 6:30 a.m. to 3:00 p.m. or 8:30 a.m. to 5:00 p.m.).
- This alternative scheduling authority does not preclude WVDOT's work scheduling policies, provided for in Section 4.3.A.1 of this Chapter, in which an entire organization is assigned a different work schedule, e.g., four days, 10-hour shifts per week.
 - Alternative scheduling must either represent the employee's regular schedule or must be for a specific time period. Employees may not be granted permission to work altered hours sporadically or at their own discretion.
 - If an employee who is working an altered schedule must be absent from work during his or her work hours, the absence must be charged to the appropriate leave category.
 - These guidelines do not necessarily preclude other arrangements in situations of extreme need on the part of employees. Supervisors should, in any case where some additional indulgence may be appropriate, submit the employee's request and the supervisory recommendation to HR Division for further consideration.

B. Temporary

Any workweek schedule may be changed due to circumstances including, but not limited to, project deadlines, seasonal workload, changed priorities, vacancies, inclement weather, occurrence of a paid holiday, or other factors. Schedules may be revised, and it should be understood that:

1. Employees, who are eligible for overtime, will not receive an adjustment in pay as a result of the change unless more than 40 hours are reported that week.
2. When a workday must be shortened by management due to unforeseen circumstances not referenced in Section 4.3.C.3

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Emergency, each employee reporting to the work site is guaranteed, by management, the right to perform at least two hours of actual work activity. This circumstance applies, primarily, to hourly employees involved in road maintenance. These employees, when this circumstance arises, will be paid for the two hours and allowed, but not required, to take annual leave to make up the rest of the shift.

- The immediate supervisor may allow employees to make up the hours they were not able to work later in the week or on the weekend, if possible.
- If the employee desires, annual leave may be charged for the number of hours needed to compensate for those hours that were scheduled to have been worked that day. If the employee does not want to charge annual leave, no other type of leave or leave of absence can be used.

C. Emergency

The Governor, or designee, may order all state employees or all in an affected area not to report to work due to emergency situations, except for employees who are essential to efforts of dealing with the emergency. In this situation, the non-essential employees who were scheduled to work are paid as if they had worked, up to eight hours, and their time is credited by the HR/Payroll representative to "other leave", for accounting purposes. The essential employees who do work are compensated either through adjusted work schedules or through monetary overtime payments, if applicable, such as when an employee works more than 40 hours in a regular workweek. Work schedules should be adjusted as soon as practical, preferably within the same workweek, or, if not possible, within the same pay period, but no later than 30 days following the occurrence. If it is not practical to give the time off within the 30 day time period, an extension may be requested through the HR Division.

1. When state offices are closed by Executive Order, an employee who reports to work, and works less than eight hours will be credited the number of hours to equal eight hours or "other leave."
2. Employees who are already scheduled for whole days of annual or sick leave on these days will not be charged for leave as planned and will not be given additional hours of "other leave."
3. If nonessential employees report to work at the usual time when an Executive Order has been given which specifies a delayed reporting time, they will be allowed to take off the number of hours of delay later that day or that same week.

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4. When employees are unable to report to work because of inclement weather or other emergencies, but state offices are not closed, they will be granted annual leave or their workweek will be adjusted to allow make-up for the hours missed, if possible. If no accrued annual leave is available, a personal leave of absence may be granted; however, employees must call in as soon as possible if they cannot report.

D. Unscheduled Duty

Employees who have completed their normal workday and have left the work site may be required to return to work before the next scheduled shift in order to meet agency needs, due to power interruptions requiring equipment or operations computers to be checked or restarted, robberies or break-ins at the office requiring interactions with law enforcement, and other situations. Management will assign employees to respond to any situations such as these that may occasionally occur. Employees who are required to report for unscheduled duty will be paid reasonable travel time from their residences to the reporting or work locations and back to their residences, as well as for the actual time spent performing the required work activities. In such situations, employees shall be credited with no less than two hours of work time.

E. Snow Removal and Ice Control (SRIC)

Certain DOH employees are expected to work SRIC duty during the winter months as an essential function of their jobs. The conditions of that function are as follows:

1. Individuals involved in SRIC and designated to work on a particular shift shall personally be contacted by phone at the work location or, if necessary, at home, by his or her County Highway Administrator, Expressway Supervisor, or Assistant Supervisor or Supervisor in Charge, when snow is predicted during off-duty hours. The employee will then receive instructions on reporting for duty.
2. Work time begins when an employee reports to the prescribed work location as previously established by the management levels noted above.
3. Transportation Workers treating the roads during SRIC will receive ½ hour paid lunch.
4. If an employee is not needed for one shift, he or she will contact the supervisor prior to the next assigned shift if snow is still predicted.
5. If an employee has been away from home and returns then becomes aware of the formation of snow or ice, he or she is expected to call the supervisor for instructions.

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6. If any employee desires to be away from home for an extended period, such as a weekend when snow is a possibility, he or she will contact the supervisor to determine if an alternate employee can cover the employee's assignment.
7. An employee on call is not required to remain on call on the DOH's premises or at home but is required to leave word at home or with the supervisor where the employee may be reached.

4.4 OVERTIME AND HOLIDAY WORK

The organization manager, or designee, may require employees to work more than the normal working hours or work official holidays, when necessary. Overtime work and work on holidays will be controlled and compensated in accordance with the Fair Labor Standards Act, W. Va. Code § 21-5C-1 *et seq.*, and the provisions of this policy.

- A. The WVDOT workweek, for overtime purposes, is from 12:01 a.m. on Saturday through midnight Friday.
- B. Overtime must be approved for hours actually worked in excess of 40 hours. After 40 hours have been accumulated, using any combination of time, no further leave time can be used.
- C. No annual, sick, or holiday leave, is to be counted in the workweek for premium overtime consideration. When leave or holiday pay is included in the first 40 hours the employee must work that many additional hours at straight time before any premium overtime may be earned. Any sick leave taken in a week when an employee works more than 40 hours will be credited back to the employee.

EXAMPLES							
SAT	SUN	MON	TUES	WED	THU	FRI	SUMMARY
		8 HOLIDAY	8 WORK	8 WORK	8 WORK	10 WORK	34 WORKED 8 HOLIDAY NO ELIG OT
	2 WORK	8 HOLIDAY	10 WORK	10 WORK	10 WORK	10 WORK	42 WORKED 8 HOLIDAY ELIG 2 hrs. OT
		8 WORK	8 WORK	10 WORK	8 WORK	8 SKLV	34 WORKED 6 SKL REDUCE SL BY 2 HRS.

- D. Hourly and non-exempt salary employees who exceed 40 hours of actual work in a workweek are paid at one-and-one-half times the normal rate, time and a half, for the overtime hours. For salaried employees, the normal rate is calculated by dividing the annual salary by the standard annual work hours, 2,080 hours. Salaried, exempt employees are paid according to the specifications of their individual job classification and this policy.

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- E. Full-time employees who are required to work holidays will be paid for the actual number of hours worked plus an additional eight hours for the holiday. Part-time employees are entitled to receive payment in accordance with provisions of Appendix A.
- F. In the case of agencies that must modify holiday schedules to accommodate around-the-clock shifts or other special needs, the organization manager or designee may implement altered holiday schedules. Each agency should notify employees in advance of altered holiday work schedules and should schedule the altered holiday as close as possible to the officially scheduled holiday.

5.0 OVERTIME CLASSIFICATION AND PAY

This section applies federal fair labor standards, as specified in the FLSA and the Code of Federal Regulations (CFR), regarding eligibility for premium overtime pay to the employees of the WVDOT. It specifies positions that are considered clearly ineligible from premium overtime pay within the organizational hierarchy and those considered clearly eligible for such. Further, it specifies a process by which the overtime status of all other positions will be determined and addresses the method of payment for hours worked in excess of 40 hours to employees who are ineligible for 1½ time pay under the FLSA. This section does not apply to any positions with salaries specified by statute.

5.1 NON-EXEMPT EMPLOYEES

Employees who do not meet the Executive, Administrative, Professional or Computer-Related employee¹ exemptions under the FLSA and federal regulations and are considered non-exempt and therefore eligible for premium overtime pay. Such employees typically:

- A. perform non-administrative duties;
- B. have no supervisory responsibilities;
- C. do not hold any professional licensure and do not primarily perform work in a field requiring advanced knowledge or a postsecondary education degree in fields such as law, accounting, engineering, architecture, or physical, chemical, or biological sciences; and
- D. do not primarily perform computer systems design, analysis, or programming duties.

5.2 TESTED POSITIONS

¹ To qualify for the computer-related occupations exemptions the employee must be a computer systems analyst, computer programmer, software engineer or other similarly skilled worker in the computer field.

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- A. All positions not falling in the exempt and non-exempt categories described above will be evaluated by HR Division under applicable federal law and regulations, using the WVDOT's White Collar Exemption Worksheet.
- B. The test will be conducted at the time an employee is hired or enters a new position or at such time as an agency manager requests an updated FLSA review.

5.3 PAYMENT TO CERTAIN EXEMPT EMPLOYEES

- A. Except those employees listed below, exempt employees will receive straight time pay for hours actually worked in excess of 40 per week.
- B. Exempt employees may be required to work additional hours with no additional compensation. WVDOT expects salaried, executive level managers to manage the workflow and delegate tasks as appropriate to reduce or eliminate the need to work more than 40 hours a week except in unusual circumstances.
- C. Individuals serving in the following positions will receive no additional compensation in any form when they work more than 40 hours per workweek:
 - Secretary, Department of Transportation;
 - Deputy Secretary;
 - Assistant Deputy Secretary;
 - Assistant to the Deputy Secretary;
 - Commissioner, Division of Highways;
 - Commissioner, Division of Motor Vehicles;
 - Commissioner, Division of Multimodal Transportation Facilities;
 - Deputy Commissioner, Division of Motor Vehicles;
 - Assistant Commissioner;
 - Executive Director, Division of Public Transit;
 - Executive Director, State Rail Authority;
 - State Highway Engineer;
 - Chief Engineers;
 - Assistant Chief Engineers;
 - Executive Advisor;
 - Attorney Managers;
 - General Counsel;
 - Business Manager;
 - Deputy Business Manager;
 - District Engineers/Managers;
 - Deputy District Engineers/Managers;
 - District Department Heads (i.e. construction engineer, bridge engineer, etc.);
 - Division Directors;
 - Assistant Division Directors (i. e. Highway Engineer Senior); and

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- Chief Data Officer.

6.0 MANAGEMENT AND REVIEW OF HOURS THAT EXCEED THE STANDARD WORKWEEK

The purpose of this section is to ensure that hours worked that exceed an employee's standard workweek are reasonable and necessary to carry out the goals and mission of the WVDOT. The procedures required by this policy are designed to ensure excess hours are either planned or approved in advance or reviewed after their unanticipated occurrence.

The requirements contained herein are predicated on the fact that the WVDOT's public service responsibilities often involve necessary work outside normal working hours that cannot be foreseen. In addition, it is recognized that many hours worked outside of the standard workweek are routine, even though unplanned, for common activities such as snow removal and other weather-related events or other situations that affect transportation throughout the state.

6.1 SCHEDULED HOURS THAT EXCEED THE STANDARD WORKWEEK

- A. Hours credited to an employee over 40 hours in a workweek that are planned by organizational supervisors must be approved in advance by the District Manager, District Engineer, or Division Director (DM or DD or relevant authority) for the DOH, or by the Agency Head or his or her designee in other WVDOT agencies. Requests for planned excess hours are to be submitted to the DM or DD or relevant authority prior to the start of the week in which the work is to be performed. The DM or DD or relevant authority will approve, disapprove, or modify the requested hours and communicate his or her action to the requesting supervisor.
- B. The designated person will generate a weekly time report in the electronic payroll system for any week in which such scheduled hours are worked and forward it to the organization or unit supervisor at the conclusion of that week. The supervisor will reconcile the hours worked with those approved. If the hours worked are less than the hours approved, the supervisor will sign the Weekly Time Report, attach documentation of the hours approved, and file that material at the organization level. If the hours worked exceed the hours approved, the supervisor will follow, for those hours worked but not previously approved, the procedure for unscheduled hours outlined herein.

6.2 UNSCHEDULED HOURS THAT EXCEED THE STANDARD WORKWEEK

- A. Hours credited to an employee over 40 hours in a workweek that are not planned but must be worked as a result of unanticipated work demands (e.g., weather conditions, traffic accidents, changes in contractor schedules, etc.) must be justified to the DM or DD or relevant authority by organizational supervisors.

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- B. The designated person will generate a weekly time report in the electronic payroll system for any week in which unscheduled hours are worked and forward it to the organization or unit supervisor who will review the report to quantify the hours, sign it to denote that the review has been made, and submit that document, as well as a signed justification for the hours, to the DM or DD or relevant authority. The DM or DD or relevant authority will affix his or her signature to the same documents to verify, review, and acknowledge the information received.

6.3 UPPER MANAGEMENT REVIEW

Each agency will establish internal procedures to track and report overtime hours for each employee and justification for the overtime.

The reports will be submitted each quarter to the Agency Head and appropriate managers.

6.4 RECORDS RETENTION

The weekly time reports, documents relating to approved scheduled hours that exceed the normal workweek, and documents justifying unscheduled hours that exceed the normal workweek will be maintained at the organization level and by the relevant authority for a period of three (3) years. Where federal aid projects are involved, this supporting documentation **must** be retained for a period of three years *beginning with the date final expenditure information has been submitted to the Federal Highway Administration (FHWA)*. The quarterly reports will be maintained by the DM or DD or relevant authority and C & H levels for the same time period.

6.5 INTERNAL AUDIT ACTIVITY

The Internal Audit section of the Transportation Auditing Division will perform occasional reviews of files to ensure that organizations are complying with this policy. The sampling rate for this activity will be at the discretion of the Auditing Division Director.

7.0 AUTHORIZED LEAVE WITH PAY

- A. All types of leave with pay (except Holiday Leave) require employees to:
- obtain approval of the immediate supervisor for planned leave as early as possible. A minimum advance request time may be established by the organization manager;
 - obtain approval of the immediate supervisor for unplanned leave, such as personal emergencies and sick leave, at least by the organization's established reporting time, the time by which employees must call in for unexpected absences, set at the organization manager's discretion;

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- complete and submit Form DOT-L1² to document the request and the approval or disapproval;
 - have sufficient earned leave balance to cover the absence. The computer system displayed leave balances may be inaccurate. See DOT Volume 3, Chapter 4, *LEAVE ACCRUALS, CHARGES AND BALANCES* item 2 for additional information; and
 - charge a minimum of ¼ hour.
- B. Violations of these leave with pay policies may subject the employee to penalties described under Section 10 of this Chapter including disciplinary action, up to and including dismissal.
- C. Leave with pay is not permitted after an employee has accumulated 40 hours of work time, paid leave, or a combination of work and leave within a workweek. Employees will be paid for hours of actual work performed that occur after the accumulation of 40 hours for the workweek, notwithstanding the fact that annual may have been attributed to reaching the 40-hour threshold.
- D. Leave usage is recorded on Form DOT-12 for daily work reporting. (See Chapter 4, Work Schedules and Attendance, of this Volume for processing information.) At the end of this Chapter, Appendix B provides a listing of leave accrual and carry-forward rates, while Appendix C provides a listing of the leave with pay authorization numbers and Appendix D provides benefits for employees on leave of absence and receiving TTD benefits.

7.1 ANNUAL LEAVE

- A. All permanent and provisional employees accrue annual leave.
- B. Approval for taking annual leave is based on the absence not affecting the efficient operation of the organization.
- C. Annual leave shall be granted, upon request, to employees who have exhausted their sick leave, sick leave for immediate family, and sick leave for death in the immediate family.
1. A completed signed Form DOT-L3, Medical Care Provider's Statement, is required upon return from annual leave for a sick absence of more than three days.
 2. Do not confuse this use of annual leave with family sick leave.

² The naming conventions for HR forms throughout this policy are subject to change without further notice. Please check with your supervisor or personnel manager for current forms.

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- D. Provisional employees must use all of their accrued annual leave, prior to the termination of their employment, in order to receive payment for it.

7.2 SICK LEAVE

- A. Permanent and provisional employees accrue sick leave to be used for personal illness, medical operations and recovery, routine dental, and medical appointments, etc.
- B. Time for travel to and from appointments may be charged to sick leave up to three hours per sick leave request.
- C. The maximum charge is one work year per substantially continuous absence, after which time the employee should consider disability retirement.
- D. Within two days of returning to work from sick leave of more than three consecutive workdays, employees must submit a completed Medical Care Provider's Statement, Form DOT-L3.
1. For extended periods of sick leave, a physician's statement confirming the necessity for continued leave must be submitted every 30 calendar days.
 2. The organization manager or designee may require a medical care provider's certification for all sick leave of an employee when it is deemed that the employee has a pattern of sick leave abuse. Abuse of sick leave will result in disciplinary action being taken against the employee. Factors potentially signaling leave abuse include the following:
 - numerous and frequent short-term absences;
 - numerous absences due to sick leave of three days or less;
 - patterns of sick leave usage involving Mondays, Fridays, or holidays.
 3. In the absence of the Medical Care Provider's Statement, the time will be charged as unauthorized leave.
- E. Employees must submit the required Forms DOT-L1 and L3 at the earliest practical time. If an employee is unable to furnish a completed Form DOT-L1 or Medical Care Provider's Statement in time to meet payroll deadlines because of extreme circumstances, the immediate supervisor, with the approval of the organization manager, may approve sick leave without the required documentation. In this event, a letter explaining the circumstances must be attached to the organization's Form(s) DOT-12, Daily Work Report.

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- F. Exposure to a contagious disease is a valid reason for sick leave approval when a medical care provider states in writing that the employee has been exposed and that his or her presence at work may jeopardize the health of others. In the event of a pandemic or any declared State of Emergency due to a contagious disease outbreak, and employees are not required to provide a statement from a medical care provider. All employees must follow WVDOT policy, or if issued, the employing agency's guidelines in such circumstances.
 - 1. Employees who become ill while on approved annual leave and are treated at a hospital emergency room or are admitted to a hospital may request that all or part of the time for treatment be charged to sick leave. The employee must provide a medical care provider's statement listing the specific dates of hospitalization or emergency room services.
- G. **Employees injured on the job:**
 - 1. Employees injured at work may not receive sick leave at the same time they are receiving Temporary Total Disability (TTD) benefits through the Workers' Compensation Insurance.
 - 2. He or she must choose at the outset of their absence whether to use sick leave or accept TTD benefits.
 - 3. If an employee elects to accept TTD, sick leave may be paid until the claim has been ruled compensable and the first benefit check is received; however, the employee must reimburse the WVDOT the net value of sick and annual leave benefits paid to them.
- H. Accrued sick leave balances of provisional employees terminate at the end of their employment.

7.3 **SICK LEAVE (IMMEDIATE FAMILY)**

All employees who are eligible for paid sick leave may use up to 80 hours of their accrued sick leave per calendar year for illnesses and routine dental and medical appointments for members of their immediate family provided their sick leave balances are adequate to cover use.

- A. "Immediate family" members include father, mother, son, daughter, brother, sister, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, grandfather, grandmother, grandchildren, stepfather, stepmother, stepbrother, stepsister, stepchild, foster children, individuals in an *in loco parentis* relationship, and individuals in a legal guardianship relationship.

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- B. The organization's HR/Payroll representative is responsible for tracking employee sick leave hours which are used for "Sick (Immediate Family)."
- C. All other sick leave rules apply.

7.4 **SICK LEAVE (DEATH IN IMMEDIATE FAMILY)**

All employees who are entitled to paid sick leave may use up to three days of accrued sick leave per occurrence for death in their immediate families provided their sick leave balances are adequate to cover the use.

7.5 **LEAVE TIME FOR ORGAN DONATION**

- A. Full-time employees shall receive up to 120 hours of leave with pay during each calendar year to use when the employee is absent from work because of the employee's donation of any portion of an adult liver or because of the employee's donation of an adult kidney.
- B. Full-time employees shall receive up to 56 hours of leave with pay during each calendar year to use when the employee is absent from work because of the employee's donation of adult bone marrow.
- C. Eligibility includes time spent for pre-operative testing to determine the potential donor's surgical fitness and compatibility. This is the case whether or not the potential donor is found to be compatible, or the organ donation occurs.
- D. The employee must request paid leave and provide verification of the pre-operative testing or organ donation on the forms prescribed by the HR Division.
- E. Leave may be taken continuously or intermittently.
- F. Leave taken for this purpose shall not be charged against employee's accrued sick or annual leave balance.

7.6 **HOLIDAY LEAVE**

Employees are entitled to time off with pay for official holidays subject to the following:

- A. To receive pay for any holiday, an employee must, at a minimum, work or be on approved paid leave for his or her full scheduled workday immediately preceding and following the holiday. An employee is not eligible to be paid for any holiday that occurs prior to his or her first day of work or after his or her date and time of separation.
- B. Full-time employees receive eight hours of holiday leave for each official holiday.

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- C. Part-time employees receive payment for holidays in proportion to the amount of time worked as compared to the employer's standard workweek.
- D. Employees who work alternative schedules that require them to work on holidays will be given the time off on another day or may be paid for eight (8) hours of holiday leave in addition to being paid for the hours actually worked.
- E. In accordance with W. Va. Code § 2-2-1 *et seq.*, official holidays are: New Year's Day, Martin Luther King's Birthday, Presidents' Day, Memorial Day, West Virginia Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Lincoln's Day (Day after Thanksgiving Day), Christmas Day, any day on which a primary, general, or special election is held throughout the State, and such other days as the President, Governor or other duly constituted authority may proclaim to be legal holidays.

7.7 MILITARY LEAVE

All employees who are members of the National Guard or of any of the Reserve Components of the Armed Forces of the Federal Government are entitled to paid military leave without loss of status or efficiency rating, on all days during which they are engaged in drills or parades during business hours or for field training or active service, for a maximum period of 30 working days in any one calendar year ordered or authorized by proper authority.

- A. The employee must have worked or been on approved leave with or without pay for military service for at least 1,040 hours, or 50 percent of the normal work schedule for part-time permanent classified employees, during the twelve-month period immediately preceding the beginning of the leave.
- B. Additionally, all employees who are ordered or called to active duty by the President of the United States are eligible for an additional paid leave of absence without loss of status or efficiency rating for a maximum period of 30 working days.
- C. Holiday leave will be paid, and official holidays are not included in figuring the 30 working day limit for military leave, provided that the eligibility requirements for being paid holiday leave are met.
- D. This "paid" status is unaffected by any other compensation these employees may receive.
- E. This paid leave policy does not apply under the provisions of any Selective Training and Service Act. Employees in this situation may request and will be granted an unpaid leave of absence (see Section 8.3).

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- F. Organization managers are authorized to approve military leave. The employee must submit a copy of the official orders from the appropriate military authority in advance of leave being granted. The official orders must be attached to the organization's copy of the Time Report for subsequent audit.

7.8 **WITNESS OR JURY SERVICE LEAVE**

Permanent employees will be granted witness or jury service leave with pay when, in obedience to a subpoena or direction by proper authority, they serve on a jury or appear as a witness before any court or judge, any legislative committee, or any officer, board or body authorized by law to conduct any hearing or inquiry.

- A. The organization manager, or designee, will require the employee to furnish written confirmation of the employee's need to be on witness or jury service leave.
 - 1. Failure of an employee to submit a summons or other appropriate documentation in advance of taking witness or jury service leave will result in accrued annual leave being changed.
 - 2. Failure to submit the required documentation will result in the employee being placed in unauthorized leave status for the absence.
 - 3. The employee must furnish official written documentation from the court or hearing officer immediately upon returning to work.
- B. The WVDOT will not support an employee's request to be excused from jury duty unless an employee's absence from work would cause significant problems in the agency's work progress.
- C. If the jury duty or duty as a subpoenaed witness does not occupy a full working day, the employee must report back to work for the remaining scheduled work time, unless the remaining time would be less than one hour, making a reasonable allowance for travel time.
- D. If an employee who normally works evening or night shift must serve as a juror, the employee should be placed on day shift, if practicable, for the length of such service and be given time off on jury service leave.
 - 1. Schedule adjustments for the employee serving on a jury are recommended because of the fatigue factor, which may contribute to increased errors, security risks, and safety infractions.
 - 2. Employees who are subpoenaed to be witnesses and normally work evening or night shift may also request a schedule adjustment.

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3. If an employee is appearing in court on behalf of and at the request of the agency, the employee is not required to submit documentation and is to be paid for actual hours incurred from the organization's administrative overhead account.
- E. This policy does not apply in cases where the employee is a litigant, defendant, or other principal party, or has a personal or familial interest in the case or proceeding.
- F. This policy does not apply to involvement in grievance proceedings. See Volume 3, Chapter 5 of *DOT Administrative Procedures* for that information.

8.0 LEAVE OF ABSENCE WITHOUT PAY

These stipulations do not apply to employees on military leave of absence. Contact HR Division for details about workers' compensation claims.

- A. Employees on a leave of absence without pay:
 1. do not accrue annual leave or sick leave,
 2. are not eligible for holiday leave,
 3. are not eligible for salary advancements,
 4. do not gain leave accrual rate increases, incremental increases, layoff consideration, or
 5. tenure of retirement.
- B. All leaves of absence without pay require the following:
 1. The employee must complete and submit a Form DOT L-2 or DOT L-4 to document the request and the approval or disapproval.
 2. The organization's HR/Payroll representative must complete and submit a Form GL-5 (with a copy of the Form DOT-L2 or DOT-L4) and Form DOT-129 to HR Division to deactivate the employee.
 3. The organization's HR/Payroll representative, after the employee returns to work, must contact the HR Division to reactivate the employee, and must complete and submit Form DOT-129 to HR Division's Payroll Section, for leave balance adjustment payroll activation, and must submit Form GL-5 to HR Division.

8.1 PERSONAL LEAVE OF ABSENCE

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- A. An Agency Head, or designee, may grant any permanent, probationary, or provisional employee a personal leave of absence for a specific period not to exceed one year.
 1. The employee must complete and submit a Form DOT L-2 to document the request and the approval or disapproval. See Section 8.0 for requirements on all leaves of absences without pay.
 2. Based on the organization's personnel needs, periods exceeding one year may be granted by the Agency Head.
 3. An organization manager may independently grant a personal leave of absence for a period of five consecutive working days or less.
 4. Time spent by probationary employees on leaves of absence are not counted as time served in completing the probationary period. This section doesn't extend the provisional period limitation.
- B. Employees must pay 100% of their medical and any optional insurance premiums for personal leaves of absence of one calendar month or more.
- C. Upon return to work, the employee will either be returned to his or her former position or one of comparable pay and duties without loss of rights, unless the position is no longer available due to a reduction-in-force.

8.2 MEDICAL LEAVE OF ABSENCE

- A. Medical leave is available only to permanent employees. Agency Head or designee will approve this leave if the employee meets all of the requirements.
- B. Medical leave is limited to a maximum of six continuous calendar months in a 12 month period.
 - The employee must have worked or been on approved leave with or without pay for at least 1,040 hours, or 50 percent of the normal work schedule for part-time permanent classified employees, during the 12 month period immediately preceding the beginning of the leave.
- C. The employee must have exhausted all available sick and annual leave.
- D. Application is made with Form DOT-L3, Medical Care Provider's Statement, completed and submitted to the immediate supervisor, along with Form DOT-L4 and DOT-L5 if DOT-L3 does not include enough information.

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1. The physician must verify on Form DOT-L3 that the employee is ill or injured and unable to perform work duties and must provide a tentative date for returning to work.
 2. An employee must apply no later than 15 calendar days following the expiration of all sick and annual leave, no later than 15 calendar days following the day on which the employee files a claim for Workers' Compensation, or within 15 days after injury or illness that renders the employee unable to perform his or her duties.
 3. Upon the submission of a properly supported application, the employee may retain all, or any portion of, his or her annual leave balance. An employee may retain all, or any portion of, a sick leave balance if the injury or illness is one for which a Workers' Compensation claim will be filed.
 4. Following approval, a new Form DOT-L3 must be submitted each time the employee's condition is re-evaluated to confirm the necessity for continued leave.
- E. The Agency Head or designee will send by certified mail to the employee a written notice of the employee's right to a medical leave of absence without pay. If possible, this must be done at least 15 days prior to, but no later than, five days following the expiration of the employee's sick leave if the employee has opted to use sick leave. A copy of the letter will be sent to HR Division to be placed in the employee's personnel file.
- F. Upon approval, the Agency Head, or designee, must notify the employee by certified mail that the request for a medical leave of absence has been granted. The letter will specify the beginning and ending date of the leave of absence, insurance information and what is required before the employee returns to work. A copy of the letter will be sent to the HR Division to be placed in the employee's personnel file.
- G. Employees are required to remit to the designated HR representative payment for their portion of the basic health insurance premium. The WV DOT will continue to pay the agency share.
1. If an employee is enrolled for optional or dependent life insurance, 100% of the premium will be remitted by the employee.
 2. All applicable premiums are to be mailed to the payroll section of HR Division no later than the fifth day of each month.
- H. When an employee is approaching the last month on medical leave of absence without pay, the organization manager, or designee, will notify the employee, by certified mail, of his or her expected return date. The employee will also be reminded that failure to return for work promptly at the expiration of the medical leave of absence, except for satisfactory

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reasons submitted in advance, will be cause for recommendation for dismissal. A copy of the letter will be sent to HR Division to be placed in the employee's personnel file.

- I. After the expiration of a six month medical leave of absence, if the employee is still unable to work, the Agency Head, or designee, may, but is not required to, grant a personal leave of absence. The request granting a continuance of a personal leave of absence for an ill or injured employee will be governed by the same policy as the granting of a medical leave of absence. This includes the payment of insurance premiums. The agency's portion of insurance premiums for a non-Workers' Compensation illness or injury will be paid for a maximum of 12 months (six months of medical leave of absence plus six months of personal leave of absence).
- J. If the employee is still unable to return to work after the expiration of six additional months of personal leave, the Director of HR Division, or designee, may, but is not required to, grant an extension of personal leave. The decision of this officer, on whether or not to grant an extension, is final. The request and continuance for this extension will be subject to the same requirements as a medical leave of absence. The agency portion of insurance premiums for ill or injured employees receiving Workers' Compensation will be paid by the employing agency. All other employees on such leave will be responsible for paying 100% of the insurance premiums.
 1. If an employee's leave of absence is due to a Workers' Compensation Illness or injury, the leave for a single injury is limited to the period during which TTD benefits are received, or 24 months, whichever is longer.
 2. If an employee's leave of absence is due to a non-Workers' Compensation illness or injury, the maximum period of leave cannot exceed 24 consecutive months.
- K. Upon returning to work, the employee will be reinstated to his or her former position or one of comparable pay and duties, without loss of rights. At this time, the employee must furnish a statement from the attending physician (Form DOT-L3) indicating the ability of the employee to return to work.
 1. The Agency Head, or designee, may permit an employee to return to work at or before the expiration date of the leave of absence at less than full duty, but the terms of return shall be written and are subject to review and renewal by the Agency Head, or designee, every 30 calendar days. Such review may include the requirement of additional certification by a physician.
 2. Failure of the employee to report promptly at the expiration of a medical leave of absence, except for satisfactory reasons submitted in advance, is cause for recommendation for dismissal.

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8.3 **MILITARY LEAVE OF ABSENCE**

Any employee entering the U.S. Armed Services in time of war, national emergency or, under compulsory provisions of U.S. law in time of peace, may be granted a military leave of absence without pay. Upon completion of and discharge from any such Armed Service, and within the applicable time period described by federal statute or regulation, the employee shall have the right to return to WVDOT service without any prejudice as to status, merit rating, or standing by reason of such absence. An employee will be credited with all annual leave and sick leave not used at the commencement of his or her military leave of absence.

- A. The employee must have worked or been on approved leave with or without pay for military service for at least 1,040 hours, or 50 percent of the normal work schedule for part-time permanent classified employees, during the 12 month period immediately preceding the beginning of the leave.
- B. When applying for such leave, the employee must submit a copy of the official orders from the appropriate military authority to the organization's HR/Payroll representative, who will then submit the orders and other documentation to the HR Division and HR Division's Payroll Section.
- C. When returning from such leave, the employee must submit a copy of the official military discharge papers and a completed Form GL-5 to the HR Division. A completed Form DOT-129 must be submitted to HR Division, Payroll Section.
- D. Military leave will not be allowed to be used as an attempt to enlarge or extend the length of employment of any temporary employee or to create a definite term in a position where none existed before.
- E. The federal law shall prevail if any of the provisions expressed in this section are found to be in conflict with federal statutes or regulations.
- F. Employees who enter the Armed Services under circumstances other than those specified above must resign but are eligible for reemployment in accordance with and subject to the provisions of the Uniformed Services Employment and Reemployment Rights Act.

8.4 **EDUCATIONAL LEAVE OF ABSENCE**

Employees may apply for a leave of absence without pay for the purpose of pursuing additional education. The Agency Head has the authority to approve or disapprove an application for such leave.

- A. Employees requesting educational leave are advised to express their reason thoroughly and explicitly for requesting this leave on Form DOT-L2 or on a separate letter attached to this form.

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- B. Each agency's policy on the granting of this leave may vary, along with requirements for additional documentation and applications. It is the responsibility of the Agency Head or designee, to provide the details to the employee.
- C. Educational pursuits may be subsidized, non-subsidized or reimbursable, depending on the employee's reason for requesting educational leave and the agency's policy on education. In no case will educational leave be considered paid leave.

8.5 PARENTAL OR FAMILY LEAVE OF ABSENCE

Any permanent employee who has worked for at least 12 consecutive weeks may take an unpaid parental or family leave of absence. This policy is in compliance with the Federal Family and Medical Leave Act of 1993 and the West Virginia Parental Leave Act, over which the federal act takes precedence if there is any conflict between the two.

- A. This unpaid leave may be taken at one of the following times:
 - 1. at the birth of a child of the employee;
 - 2. at the placement of a child by adoption;
 - 3. for the care of an employee's child, spouse, parent, or dependent who has a serious health condition. This leave can be taken intermittently when medically necessary;
 - 4. at an employee's own serious illness.
- B. The qualifications and conditions of family leave are as follows:
 - 1. Leave is restricted to 12 weeks in a 12-month period.
 - This may be taken on a part-time leave schedule, but may not exceed 480 hours, and must be mutually arranged between the employee and supervisor.
 - The employee must have exhausted all available sick and annual leave.
 - If a husband and wife are both state employees, both are entitled to the 12 weeks.
 - An employee may substitute any part of this unpaid 12 weeks with paid leave, if available. Documentation must be made on Form DOT-L1.

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2. The employee must submit Form DOT-L3 and give two weeks' notice to the immediate supervisor that he or she will be taking parental or family leave, if practical. Form DOT-L5 for employee's own illness may be requested.
 3. The immediate supervisor may require certification of a serious illness of the employee's family member from a health care provider before granting leave (use Form DOT-L3, Medical Provider's Certification or the physician's own written statement). Form DOT-L6 may be requested.
- C. During parental or family leave, or at its conclusion:
1. the employee's job position will be held, and he or she will be returned to the position.
 2. while on leave, employees are entitled to the same insurance coverage, and premium obligation, they would have if working.
 3. If the employee fails to return to work, the agency may seek to recover the health insurance premiums paid by the agency.

9.0 UNAUTHORIZED LEAVE POLICIES

When an employee is absent from work without authorization, for sick or annual leave, the employee is on unauthorized leave. The employee shall not be paid for unauthorized leave. This unpaid time is not counted as tenure for leave accrual purposes, incremental increase, or as tenure with WV DOT if a reduction in force is affected. Unauthorized leave is counted in increments of one-quarter of an hour and no time is reported for this form of absence on DOT-12 Forms.

- A. Immediate supervisors are to document the unauthorized leave with the completion and submission of Form RL-544 and Form RL-546 (disciplinary action forms). Also, Form GL-5, "Personnel Transaction Form" (to reduce the employee's tenure), must be submitted to the HR Division.
- B. Immediate supervisors may place an employee in unauthorized leave status, whether the affected employee has accrued leave available, if an employee fails:
 1. to notify the immediate supervisor of the reason for an absence prior to the call-in time established for the organization. Supervisors should not apply this discipline when unusual or emergency situations make this rule difficult or impossible for the employee to follow.
- C. If, when the employee does call in, the supervisor feels that the reason the employee gives for not calling in at the proper time is an acceptable reason,

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he or she may allow the employee to apply retroactively for paid leave or a leave of absence for the time missed from work.

- D. Failure of an employee to report for work on time, subject to the conditions below.
1. If an employee is tardy for work and has failed to notify the immediate supervisor in advance, he or she may be placed in unauthorized leave status.
 2. If this action is taken and the tardiness is less than one-quarter of an hour (or not on the quarter hour: e.g., beginning of shift is 7:30 a.m. and the employee comes in at 8:05 a.m., the employee is not to be allowed to begin work until such time as the total unauthorized leave can be counted in one-quarter of an hour increments.
 3. The immediate supervisor is to instruct the employee, in the presence of one witness, that he or she may either leave the work premises or sit in the supervisor's office for the period needed to complete the one-quarter of an hour increment.
 4. If the employee is allowed to begin work, he or she must be paid for the one-quarter of an hour in question and cannot be placed in unauthorized leave status for that portion of his or her tardiness.

10.0 ENFORCEMENT & AUTHORITY

- 10.1 Employees may not work lunch breaks to make up for absences during the day without specific authorization from their organization managers. In no case is such an arrangement permissible on a regular basis. Additionally, employees may take short breaks for refreshment or other personal matters, but break periods cannot be accumulated, used to shorten a workday, or used to extend a lunch period.
- 10.2 The Governor, or designee, may order all state employees or all in an affected area to not report to work due to emergency situations, except for employees who are essential to efforts of dealing with the emergency.
- 10.3 Nonessential employees that report to work at the usual time when an Executive Order has been given which specifies a delayed reporting time, they will be allowed to take off the number of hours of delay later that day or that same week.
- 10.4 Certain DOH employees are expected to work SRIC duty during winter months as an essential function of their jobs.
- 10.5 The organization manager, or designee, may require employees to work more than the normal working hours or on official holidays, when necessary to the public interest.

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- 10.6 The Secretary or his or her designee may exempt overtime hours from the 270 hours per calendar year limit in situations where employees must work overtime to meet work demands.
- 10.7 At the end of each calendar year quarter, the DM or DD for the DOH, or the Agency Head or his or her designee of other WVDOT agencies, will submit a report of all hours worked during the quarter to the appropriate C or H level manager. The report will include the number of hours, the extent to which the hours were justified, and any remedial action that was taken to curtail the working of unnecessary hours.
- 10.8 Violations of the leave with pay policies may subject the employee to penalties described under Section 6 of this Chapter including disciplinary action, up to and including dismissal.
- 10.9 To receive pay for any holiday, an employee must, at a minimum, work or be on approved paid leave for his or her full scheduled workday immediately preceding and following the holiday. An employee is not eligible to be paid for any holiday that occurs prior to his or her first day of work or after his or her date and time of separation.
- 10.10 An Agency Head, or designee, may grant any permanent, probationary, or provisional employee a personal leave of absence for a specific period (normally a maximum of one year).
- 10.11 Employees are required to remit to the WVDOT payment for their portion of the basic health insurance premium. The WVDOT will continue to pay the agency share.
- 10.12 The Agency Head, or designee, may permit an employee to return to work at or before the expiration date of the leave of absence at less than full duty, but the terms of return shall be written and are subject to review and renewal through the Agency Head, or designee, every 30 calendar days. Such review may include the requirement of additional certification by a physician. Failure of the employee to report promptly at the expiration of a medical leave of absence, except for satisfactory reasons submitted in advance, is cause for recommendation for dismissal.
- 10.13 When applying for military leave, the employee must submit a copy of the official orders from the appropriate military authority to the organization's HR/Payroll representative, who will then submit the orders and other documentation to the HR Division. When returning from such leave, the employee must submit a copy of the official military discharge papers and a completed Form GL-5 to the HR Division. A completed Form DOT-129 must be submitted to HR Division's Payroll Section.
- 10.14 Employees may apply for a leave of absence without pay for the purpose of pursuing additional education. The Agency Head has the authority to approve or disapprove an application for such leave. Employees requesting educational leave

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are advised to thoroughly and explicitly express their reasons for requesting this leave on Form DOT-L2 or on a separate letter attached to this Form.

- 10.15 When an employee is absent from work without authorization, for sick or annual leave, the employee is on unauthorized leave. This is a disciplinary action that results in the loss of an employee's pay. Immediate supervisors are to document the unauthorized leave with the completion and submission of Form RL-544 and Form RL-546 (disciplinary action forms). Also, Form GL-5, "Personnel Transaction Form" (to reduce the employee's tenure), must be submitted to the HR Division.
- 10.16 Immediate supervisors may place an employee on unauthorized leave status if the employee fails to notify the immediate supervisor of the reason for an absence prior to the call-in time established for the organization, or if the employee fails to report for work on time (subject to certain conditions).

11.0 RELEVANT MATERIALS and DOCUMENTS

- 11.1 [Form DOT-12](#) Daily Work Report
- 11.2 [Form DOT-129](#) Payroll/Benefits Transaction Form
- 11.3 [Form GL-5](#) Transaction Form
- 11.4 [Form RL-544](#) Notice to Employee: Warning, Disciplinary, or Criminal Suspension
- 11.5 [Form RL-546](#) Employee's Verification of Disciplinary Action (RL-546)
- 11.6 [Form DOT-L1](#) Leave with Pay
- 11.7 [Form DOT-L2](#) Leave of Absence Without Pay
- 11.8 [Form DOT-L3](#) Physician's or Practitioner's Statement
- 11.9 [Form DOT-L4](#) PLA; FMLA or Medical Leave of Absence Without Pay Request
- 11.10 [Form DOT L-5](#) FMLA and or Medical Leave of Absence Without Pay Supplemental Certification of Health Care Provider for Employee's Serious Health Condition
- 11.11 [Form DOT-L6](#) FMLA and or PLA Supplemental Certification of Health Care Provider for Family Member's Serious Health Condition
- 11.12 Division of Highways Human Resources Division's White Collar Exemption Worksheet
- 11.13 Code of Federal Regulations (CFR) <https://www.ecfr.gov/cgi-bin/text-idx?SID=2fbe76ba1ebf6d4c076736e8f3a82dcd&mc=true&tpl=/ecfrbrowse/Title29/29cfrv302.tpl#>

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11.14 Fair Labor Standards Act (FLSA) <https://www.dol.gov/agencies/whd/flsa>

11.15 Federal Family and Medical Leave Act of 1993 (FMLA)

11.16 Selective Training and Service Act

11.17 Veteran's Reemployment Rights Act

11.18 West Virginia Parental Leave Act (PLA)

11.19 W. Va. Code § 21-5C-1

11.20 W. Va. Code § 2-2-1 (Official Holidays)

11.21 Weekly Time Report (TSO Report 100, HWDD-100A)

12.0 APPENDICES

Appendix A

Table of Leave Eligibility

Kinds of Leave	Perm. FT	Perm. PT	Prob.	Prov.	Temp.
Annual (all types)	Yes	Yes 1	Yes	Yes	No
Sick (all types)	Yes	Yes 2	Yes	Yes	No
Holiday	Yes 3	Yes 3	Yes 3	Yes 3	No
Military	Yes	Yes	Yes	Yes	No
Witness or Jury Service	Yes	Yes	Yes	Yes	No
Personal LOA 4	Yes	Yes	Yes	Yes	No
Medical LOA	Yes	Yes	Yes	Yes	No
Military LOA	Yes	Yes	Yes	Yes	No
Education LOA	Yes	Yes	Yes	Yes	No
Parental or Family LOA	Yes	Yes	Yes	Yes	No

1. Permanent part-time employees earn annual leave based on a percentage of the amount of time they report as compared to the normal 40-hour week.
2. Permanent part-time employees earn sick leave based on a percentage of the amount of time they report as compared to the normal 40-hour week.
3. Any employee is eligible to receive payment for a holiday provided the employee works or is on approved leave status for: 1) either the full scheduled workday before or after the holiday, AND 2) either works or is on approved paid leave status for any fraction of the scheduled workday before or after the holiday. It is necessary for one of the days to be a day for which the employee receives payment for a full

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scheduled workday. Part-time employees receive payment for holidays in proportion to the amount of time they would normally be scheduled to work.

4. LOA: unpaid leave of absence.

Appendix B

Table of Annual and Sick Leave Accrual and Carry-Forward Rates

Type of Leave	Length of Service*	Maximum Accrual Hours Per Pay Period	Maximum Annual Carry-Forward Rate
Annual	Less than 5 years	4.616660	240 hours or 30 days
Annual	5 years but less than 10	5.550000	240 hours or 30 days
Annual	10 years but less than 15	6.470000	280 hours or 35 days
Annual	15 years or more	7.400000	320 hours or 40 days
Sick	Any length	5.550000	No maximum

* The WVDOT will accept service from certain non-covered and non-WVDOT agencies as qualifying service for determining the rate of accrual for annual leave and transfer of accrued annual and sick leave. Contact HR Division for details. A general list of agencies from which service and leave will be accepted is as follows:

- all state agencies under the Executive branch, including boards, commissions, and authorities.
- state colleges and universities (non-faculty employees only).
- state constitutional offices, including full-time employees of the legislature and any state funded board, commission, or authority appointed by constitutional officers.
- this list is intended as guidance and is not to be taken as exhaustive or exclusive. The intent of the agency is to accept service and leave from state-funded entities that adhere to the same leave accrual and usage policies as those prescribed in the Department of Transportation Employment Procedures Rule, 217CFR1. Where there is a question to acceptance, contact the HR Division for details. In all cases of leave balance transfer, such transfer will be on an hour for hour basis, with no consideration given to any differences in work hours between the transferring agency and the WVDOT.

Appendix C

Table of Authorization Numbers for Leave with Pay

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Standard Authorizations:

wvOASIS Leave Events	DESCRIPTION
ANNLV	Vacation/Annual leave
SICKLV	Sick Leave
FMSUS	Sick leave – family
HOLLD	Holiday leave

Special Authorizations:

WvoASIS AUTH	DESCRIPTION
(Consult Payroll)	Annual leave paid after termination
JURYL	Jury duty (court/witness leave)
MLVAU	Military leave usage – Maneuvers
MLVBU	Military leave usage – Call to Duty
DPTCL	Eligible Dept Close Leave (Only used when authorized by mgt)
WCIME	Workers' Comp. Requested Medical Exam*

* Limited to actual travel time and examination time only. Requires copy of letter from the Insurance Commissioner or HR or Legal Division to be attached to the employee's time report, Form DOT-12. Use Receiving Organization 0083.

Appendix D

Table of Benefits for Employees on Leaves of Absence and Receiving TTD Benefits

Merit System Benefit	Previous Entitlement	Present Entitlement <i>Effective: 7/6/2005</i>
Annual Leave Accrual	No	Yes
Service for Accrual Rate	No	Yes
Sick Leave Accrual	No	No
Holiday Pay	No	No
Annual Increment Pay	Yes	Yes
Annual Increment Seniority	No	Yes
Lay Off Years of Service	No	Yes
Retirement Years of Service	Yes	Yes

13.0 CHANGE LOG

February 8, 2022 –

- Work Schedules and Attendance Section added on Page 3.

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- Introduction added on Page 1. Overtime and Holiday Work added on Page 8. Leave of Absence Without Pay added to Page 20. Unauthorized Leave added on Page 27. Categories of Employment added on Page 32.
- Table of Leave Eligibility added on Page 31.
- Table of Benefits for Employees on Leaves of Absence and Receiving TTD Benefits added to Page 34.
- Management Review of Hours that Exceed the Standard Workweek added on Page 11.
- Table of Authorization Numbers for Leave with Pay added on Page 34.
- Breaks added on Page 4.
- Authorized Leave with Pay added on Page 13.
- Table of Contents added to policy on Page 1.
- Policies for Management Review of Hours that Exceed the Standard Workweek added on Page 11.
- Overtime Classification and Pay added on Page 8.
- Table of Annual and Sick Leave Accrual and Carry-Forward Rates updated on Page 33.
- Change the overtime cap for exempt employees to 338 hours (formerly 225 hours). Section 5.4, Policies, Payment to Exempt Employees. Page 10 is affected by this change.
- Changed format per instruction to Microsoft Word, Arial 11/14 Font. Policy reviewed, edits made to errors, no information altered.
- Updated 4.4 A, Overtime and Holiday Work, on Page 8. Changed the WVDOT workweek for overtime purposes to match the computer system's workweek schedule for WVDOT. Updated 7.3, Sick Leave (Immediate Family) to 80 hours from 40 hours per year, on Page 16.
- Changed format per Policy and Procedure Working Group, table of contents Roman Numerals removed but no information changed.
- Updated 7.3 A, Page 16, Sick Leave (Immediate Family)
- Updated Section 12, Page 32. Table of Annual and Sick Leave Accrual and Carry-Forward Rates. Annual Leave to 4.616660 per pay period (formally 10 hours per month) for Less than 5 years of service; 5.550000 per pay period

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(formally 12 hours per month) for 5 years, but less than 10 years; 6.47000 per pay period (formally 14 hours per month) for 10 years, but less than 15 years; 7.400000 per pay period (formally 16 hours per month and Sick Leave to 5.550000 per pay period (formally 12 hours per month). Volume III, Chapter 10, Appendix B Table of Annual and Sick Leave Accrual and Carry Forward Rates is affected by this change.

- Updated Section 7, 2nd paragraph, Page 14. Change in additional hours paid after the accumulation of 40 hours of work time and/or leave time. This change is per memo from Acting HR Director, Drema Smith, dated 2/16/18.
- Updated Section 6, page 11, to include previous DOH 2.10 Excess Hours Policy. DOH 2.10 had exact same wording except it had DEM/DD listed instead of relevant authority. I added DEM/DD or relevant authority throughout Section 6.
- Policy revised to put it in new format as established by the Policy & Procedures Work Group. Other changes include incorporating other policies into this one. They include DOH 3.10, Excess Hours, and DOH 3.13, Overtime Classification and Pay. These two (2) policies will be rescinded. The method of paying overtime and the employees who are eligible to receive straight time overtime have been updated.
- Overtime eligibility for executive and management levels of DOT agencies were clarified and limited.

February 8, 2022 –

- Policy revised to include grandchild in the definition of “immediate family” in Section 7.3 Sick Leave (Immediate Family), page 16; and identified the Payroll Section being under Human Resources Division, throughout document.

November 4, 2022 –

- Updated section 4.0 to clarify lunch and breaks.
- Updated the location of the Payroll Section. Formally in Finance and Administrative Division, now located in HR Division.
- Updated Division references to include Multimodal and removed individual references to State Rail, Public Transit, and Aeronautics.

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Approved by:



Jimmy D. Wriston, P.E.
Secretary of
Transportation
Commissioner of
Highways



Date

*The Secretary of the West Virginia Department of Transportation or the Commissioner of Highways may, pursuant to the authority vested with the Secretary and Commissioner in W. Va. Code §5F-2-2, §17-2A-1 *et seq.*, and §17-2-1 *et seq.*, waive the requirements of this policy if the circumstances, in the Secretary or Commissioner's sole discretion, warrant such action.