DATE: April 1, 2015

TO: College of Agricultural Sciences (CAS) and Agricultural Experiment Station (AES) Research Centers Supervisors of State Classified (SC) and Administrative Professional (AP) salaried and Hourly Employees

FROM: Ryan Abbott, AES Assistant Director Joanna Holliday, CAS/AIDS Director of HR

SUBJECT: CSU’s Overtime/Compensatory Time/Flexible Work Arrangement Policies

PURPOSE:
This memorandum serves as a supervisor’s quick reference guide to Colorado State University’s Overtime/ Compensatory Time/Flexible Work Arrangement (FWA) policies that may apply to Administrative Professional (including Research Associate/Research Scientist) and State Classified salaried and Hourly Employees. For your reference, specific policy text and links are included under APPENDICES. This memo supersedes any previous policies on similar topic(s) from the college and/or AES.

ELIGIBILITY DESIGNATION:
At CSU, the Human Resources Department is responsible for reviewing salaried and hourly positions classified as State Classified or Administrative Professional (including Research Associates/Research Scientists) for designation status under Fair Labor Standards Act (FLSA), and, if applicable, assigning exemption(s). Under FLSA criteria, they designate a position as either:

- “Non-exempt”/eligible for overtime OR
- “Exempt”/not eligible for overtime

There are several exemptions to FLSA status which include, but are not limited to; executive, administrative, professional, and computer employees. In our college, due to the nature of our work, some of our SC and AP positions may also be designated as “Exempt”/not eligible for overtime under an Agriculture Exemption. Note: Academic Faculty are exempt from overtime provisions of the FLSA.
RELEVANT CSU POLICIES:
Depending upon a position’s eligibility designation, there are three (3) CSU policies that may apply to a 40+ work hours /work week. **Note:** the university defines a work week as starting at 12:01 AM each Saturday and seven consecutive 24 hours or any regularly recurring period of 168 hours.

Employees whose work week exceeds 40+ hours are addressed through:

- Overtime and/or
- Compensatory Time and/or
- Flexible Work Arrangements (FWA)

DEFINITIONS:
**Overtime** is the time a “Non-Exempt”/eligible for overtime position is directed or allowed to work in excess of a 40 hour established work week, except as outlined in special plans.

**Overtime may be paid either in cash or in compensatory time.** At the time the overtime is worked, the department must decide whether the overtime is to be paid in cash or in compensatory time. Departments must reach an agreement with employees hired after April 15, 1986, regarding compensatory time payment.

For new employees starting after April 1, 2015, an agreement to accept compensatory time off in lieu of cash payment will be a condition of employment for “Non-exempt”/eligible for overtime positions.

If overtime is paid in cash, the rate is 1 1/2 times the employee's regular pay rate. If paid in compensatory time, the time allowed shall be 1 1/2 hours off for each hour of overtime worked. This must be a mutual agreement between the employee and the department, and a written record must be kept.

A “Non-exempt”/eligible for overtime salaried and hourly employee may accumulate up to 160 hours of overtime equating to 240 hours of compensatory time at any given point in time. Any overtime worked in excess of this amount of accumulated overtime hours must be paid for in cash at the next regular pay period.

Due to the nature of our work, schedules may occasionally exceed 40 hours per week. Both the supervisor and the employee have the responsibility to plan schedules to minimize extended periods of time above 40 hours per week. The supervisor has the responsibility to consider alternatives such as flexible schedules, hiring temporary employees, etc. to minimize the impact of excess hours on the employee as well as the organization. Accumulated "comp" time must be scheduled and taken as soon as practical and the 160 hour cap should not exceed a 12 month rollover period, thus creating a burdensome long-term tracking requirement on both the employee and supervisor. Whenever possible, the time for taking such "comp" time shall be by mutual agreement between the employee and the department. Potential overtime/compensatory time must be approved by the supervisor before it occurs.

**Flexible Work Arrangements (FWA)** are arrangements between supervisors and employees that allow employees to complete their duties while working non-traditional schedules. Flexible work arrangements are not an employee benefit or right. However, FWAs are encouraged when it is reasonable and practical to do so and when operational responsibilities of a unit are not adversely impacted. Employees who are non-exempt (i.e., overtime-eligible) may not be able to work varying hours unless care is taken to comply with the Fair Labor Standards Act (FLSA) and other applicable laws and regulations governing work hours.
Supervisors should consult with the AES Assistant Director and CAS/AES Director of Human Resources and, as applicable, CSU Human Resources before approving flex hours for non-exempt employees. Employees who are exempt from overtime under the FLSA do not work a specified number of hours per week, and may exceed 40 hours in a workweek without earning overtime pay. **Note:** Daily work hours for administrative professionals exempted from the overtime provisions of FLSA do not record work hours. Flexible work arrangements do not convert an exempt position to a non-exempt position, so if the demands of the job require the employee to work more hours than the flex arrangement reasonably allows, or to work at a specific time or place that conflicts with the arrangement, then the flex arrangement will have to be modified (or not used during the period in question). In all cases, the primary consideration is the employee’s ability to meet all usual expectations for performance of the work.

For “Exempt”/not eligible for overtime employees whose work schedule is impacted by agriculture production and external factors that are outside of our control (i.e., inclement weather, seasonal, planting, harvesting, breeding, and/or birthing cycles), the supervisor has the discretion to grant time off on an hour-per-hour basis per unit or individual. The supervisor needs to seek endorsement of the “time-off” agreement parameters from the CAS Dean and/or AES Deputy Director prior to implementation. Agreements may be modified to accommodate changes in unit/center/department, College, and University policies and goals. **Note:** this “time-off” is not an employee benefit or right. Under the guidance of the Dean and/or Deputy Director, the supervisor ultimately has the responsibility to strategically plan in order to optimize resources, maintain efficiencies and effectiveness, and balance approved leave. Staffing alternatives such as flexible work arrangements and hiring temporary, seasonal, and hourly employees are preferred to help offset 40+ hour work weeks for our “Exempt” positions.

Please contact us with any questions - Ryan.Abbott@colostate.edu or (970) 491-7490 or Joanna.Holliday@colostate.edu or (970) 491-7691. CSU Human Resources (HR) also addresses policy interpretation and compliance at (970) 491-MYHR. Thank you for your attention to this matter.
FAIR LABOR STANDARDS ACT (FLSA)


OTHER EXEMPTIONS

Read an overview of FLSA exemptions on the Department of Labor website: http://www.dol.gov/whd/regs/compliance/fairpay/fs17a_overview.pdf

AGRICULTURE EXEMPTION

Read about the Agriculture exemption on the Department of Labor website: http://www.ecfr.gov/cgi-bin/text-idx?SID=ace076c6e912953c196cfb4faf52faac&node=pt29.3.780&rgn=div5#sp29.3.780.d

CSU COMPENSATORY TIME AGREEMENT under development as of March 2015

Staff Positions are individually reviewed to determine whether they are eligible for, or exempt from, the overtime provisions of the Fair Labor Standards Act (FLSA). This designation may change over time due to modifications to the law, an individual’s work schedule, a change in job assignment or other relevant factors. Information about the overtime status of a position included on the position description or an employee may contact the Human Resources Department at 491-6947 to verify his/her status. Acceptance of compensatory time in lieu of cash payment for overtime is a condition of employment at Colorado State University. Compensatory time is awarded at one and one-half hour for each hour of overtime worked. Additional information about your employment rights, privileges and benefits, as well as rules and procedures which may affect your employment relationship can be found in the Human Resource Services Manual (HRS Manual) available on the Human Resource Services Department website at: http://www.hrs.colostate.edu/policies/hrs-manual.html.

ACADEMIC FACULTY AND ADMINISTRATIVE PROFESSIONALS (EXEMPT)

CSU Human Resources Web Site: http://www.hrs.colostate.edu/compensation/classification-fap.html

Academic faculty are exempt from the overtime provisions of the Fair Labor Standards Act (FLSA). Do not record daily work hours for faculty and administrative professionals exempted from the overtime provisions of FLSA. Departments have an obligation, however, to ensure that the job requirements and work schedules, if applicable, are met.

CSU HUMAN RESOURCES MANUAL: http://www.hrs.colostate.edu/pdfs/hrs-manual-2-faculty-admin-pro.pdf

The responsibilities of academic faculty and Administrative Professionals are such that it is not appropriate to establish specific work hours for all the work performed.
1. Established Work Week

An established work week is any regularly recurring period of 168 hours - seven consecutive 24-hour periods - designated as a period of work for an employee. The established work week for all University departments shall be 168 consecutive hours beginning 12:01 a.m. each Saturday. Deviations from this established work week must be approved in writing by the Executive Director and Chief Human Resource Officer of the Human Resources Department.

Generally, administrative offices are open from 7:45 a.m. to 4:45 p.m. or 8:00 a.m. to 5:00 p.m., Monday through Friday, during the academic year, and from 7:30 a.m. to 4:30 p.m. during the summer. However, many units have operating hours that deviate from these times based upon client service or other operational considerations that dictate different schedules.

The nature of the educational endeavor makes it impractical to establish specific work hours for Academic Faculty and Administrative Professionals with assignments in the areas of teaching, research, and administration of these areas of institutional responsibility.

2. Hours Worked

Hours worked is the time for which an employee is entitled to compensation. For employees eligible for overtime, compensation must be paid for the time the employee is required to be on duty on the employer's premises, or at a prescribed work place, and for the time the employee is "suffered or permitted" to work, whether or not requested to do so. Thus, hours worked can include time spent in idleness and in incidental activities as well as in productive labor.

Scheduled meal periods are discretionary, are not counted as work time and must be at least 20 minutes. However, if the employee is materially interrupted or not completely free from duties, the meal period is counted as work time.

Work breaks are discretionary. If granted, breaks of up to 20 minutes are considered work time. Breaks shall not be used to offset other work time nor to substitute for paid leave, shall not be taken at the beginning or end of the workday, nor shall be used to extend meal periods.

OVERTIME

1. Overtime Definition

Overtime is the time an employee in a position eligible for overtime is directed or allowed to work in excess of a 40 hour established work week, except as outlined in special plans. Work over 8 hours on a single workday may be balanced by time off in the same work week at a time mutually agreeable to the employee and supervisor. Overtime will not accrue until more than 40
hours are accrued in a single work week. Authorized paid leave and holidays shall be counted as time accrued for purposes of determining overtime.

2. Overtime Use
Overtime should be considered a reserve resource to be used sparingly and only on occasions when emergencies require. The utilization of overtime shall be at the discretion of the department head, subject to the provisions of this manual and limited by the availability of funds. Overtime may be authorized: (1) in the event of unforeseeable emergency, (2) for the purpose of manning a station or assignment when another employee is not available for work, (3) to provide essential services which cannot be provided by overlapping work schedules, and (4) to carry out short-range assignments for which the utilization of regular employees is more advantageous than the hiring of additional personnel.

Prior approval of the department head (or his or her designee) should be secured before an employee eligible for overtime is directed, authorized or allowed to perform overtime that will exceed the 40 hour per workweek threshold. Overtime approval may be verbal or written as determined by the supervisor. The hours worked in excess of 40 in a single work week will be paid at a rate of one and one half times the employee’s hourly rate, or shall be taken as compensatory time, unless the excess hours are balanced with time off during the same week, keeping the weekly total to 40 hours or less. Emergency overtime should be reported to the supervisor as soon as possible for approval. The overtime approval status should be noted on the timesheet by the supervisor. All overtime will be paid regardless of approvals, but non-approved overtime may be subject to corrective or disciplinary action.

3. Time Off
Time off is equivalent hours authorized away from the job to balance extra (over 8) hours worked on days of the same work week so that no overtime liability is incurred. No leave is charged for this time off.

4. Overtime Eligibility
The Human Resources Department individually reviews all state classified positions and designates each as either eligible or ineligible for overtime. These determinations are based upon the criteria contained in the Fair Labor Standards Act (FLSA). Departments and/or employees who question the stated designation may ask that a review be conducted. Requests should be submitted to the Executive Director and Chief Human Resource Officer of the Human Resources Department. Information concerning the FLSA criteria is available in the Human Resources Department.

All employees paid on an hourly basis are eligible for overtime regardless of the noted overtime designation for the appropriate job classification, with the exception of certain employees in computer related occupations who are paid at an hourly rate exceeding $27.63. Employees in computer related classes normally exempt from overtime whose hourly rates exceed this minimum are paid their normal hourly rate for all hours worked.

5. Travel Time and Overtime
For employees who regularly work in a fixed location who are given a special one day assignment in another city, travel time is compensable working time.

When employees travel overnight on business, they must be paid for time spent in traveling, except for meal periods, during their normal working hours, including Saturdays, Sundays and holidays. However, they shall not be paid for time spent in travel outside those hours.
6. **On-Call Status**

This is a condition where an employee is subject to call to duty but is not actually performing work. An employee, who is required to remain on call on University premises, or so close thereto that time cannot be used effectively for personal purposes, is working while on call. An employee who is not required to remain on University premises, but is merely required to provide a means of contact with University officials is not working while on call. The determination is made on the degree of restricted activity, and not on the basis of location.

7. **Sleep-in-Time**

At times an employee is required to remain on the job and is permitted to sleep while on duty. Sleep-in-time is generally considered work time and requires compensation. However, the employee and the department may mutually agree to exclude compensation for sleep-in and meal time if the employee is required to be on University premises twenty-four or more consecutive hours.

8. **Weekends and Periods of Paid Leave**

Employees whose established work week includes Saturday and/or Sunday shall have such day(s) treated as any work day for the purposes of overtime.

9. **Casual, Occasional or Sporadic Employment**

Hours worked by an employee are excluded from calculation of overtime hours if the work is: 1) in a different capacity from any capacity in which the employee is regularly employed; 2) is at the employee’s option, and; 3) is on an occasional or sporadic basis.

10. **Accrual and Recording of Overtime**

For employees in job categories eligible for overtime, time worked shall be recorded daily on the applicable time sheet in hours and minutes. For example, if an individual works 8:00 a.m. to 5:16 p.m., 8 hours and 16 minutes should be recorded. However, compensable overtime will not accrue until more than 40 hours are worked in a single work week.

11. **Charging Overtime When Working in Two or More Positions**

Employees whose positions entitle them to overtime compensation are to be paid overtime compensation for all time worked over forty hours in a work week, whether the excess hours result from work in a single department or work in two or more University departments or state agencies/institutions combined. Employees are responsible for advising their employing department(s) and securing approval prior to commencing employment with another University department or agency/institution. Each department should coordinate with other department, agency/institution sharing the services of an employee to ensure that overtime is properly recognized and compensated. Overtime or employees working in more than one department, agency/institution where the hours over forty are actually worked (the last hours worked in the week).

12. **Payment of Overtime**

Overtime may be paid either in cash or in compensatory time. At the time the overtime is worked the department must decide whether the overtime is to be paid in cash or in compensatory time. Departments must reach an agreement with employees hired after April 15, 1986, regarding compensatory time payment. For new employees, an agreement to accept compensatory time off in lieu of cash payment is a condition of employment.

If overtime is paid in cash, the rate is 1 1/2 times the employee's regular pay rate. If paid in compensatory time, the time allowed shall be 1 1/2 hours off for each hour of overtime.
worked. This must be a mutual agreement between the employee and the department and a written record must be kept.

Cash payment for overtime will be made no later than the next regularly scheduled payday following the end of the payroll period in which the overtime hours were worked.

13. **Compensatory Time**

1. **Standard Provision** - A non-exempt salaried employee may accumulate up to 160 hours of overtime equating to 240 hours of compensatory time at any given point in time. Any overtime worked in excess of this amount of accumulated overtime hours must be paid for in cash at the next regular pay period.

Accumulated "comp" time must be scheduled and taken as soon as practical. Whenever possible, the time for taking such "comp" time shall be by mutual agreement between the employee and the department.

**FLEXIBLE WORK ARRANGEMENTS (FWA)**

CSU HUMAN RESOURCES MANUAL
Section 1: General Provisions  [http://www.hrs.colostate.edu/pdfs/hrs-manual-1-general-provisions.pdf](http://www.hrs.colostate.edu/pdfs/hrs-manual-1-general-provisions.pdf)
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3. Flexible Work Arrangements

The University values its employees’ well-being and strives to promote a positive work-life integration. Flexible work arrangements, such as flextime schedules, compressed workweeks, part-time arrangements, telecommuting, job sharing, sabbaticals, and phased retirement can help employees balance work and personal life demands while, at the same time, enabling employees to meet their needs and perform well the duties of their position. Flexible work arrangements are encouraged whenever, in the discretion of the department or unit head, they will promote the productivity and efficiency of the work unit and enhance employees’ work-life integration.

Types of Flexible Work Arrangements:

1. **Flextime Schedules**: A work schedule that allows an employee to vary their start and end times around pre-defined core hours without changing the total hours worked in a defined work week. The core period will vary by the unit, position, and sometimes the time of year; in most areas, it is between 7:30 a.m. and 5:30 p.m.

2. **Compressed Workweek**: A full-time work schedule that is compressed by varying the length of the workday into fewer than five days. For example, an employee who normally works 40 hours Monday- Friday may work four 10-hour days instead.

3. **Telecommuting**: A work schedule that that allows employees to work part or all of their work hours from allocation other than their regular work site. An example would be an employee who works from a home office two days per week.

4. **Job Sharing**: A work arrangement in which the responsibilities of one full-time position are divided by two employees who work a part-time schedule. Job sharing
differs from part-time work in that job share partners are expected to be interchangeable in work assignments and represent a single employee in all respects. Job sharing arrangements MUST be approved by Human Resources before being implemented.

Flexible work arrangements are an additional management tool available to supervisors to assist a work unit to operate effectively and efficiently. Flexible work arrangements are encouraged when it is reasonable and practical to do so and when operational responsibilities of a unit are not adversely impacted. Flexible work arrangements are not an employee benefit or right. Before implementing schedule changes or other variances from established work days, hours and locations, the department or unit head should check with the responsible higher authority (dean, vice president, vice provost, etc.). The following guidelines shall be observed:

1. Employees who are non-exempt (i.e., overtime-eligible) may not be able to work varying hours unless care is taken to comply with the Fair Labor Standards Act (FLSA) and other applicable laws and regulations governing work hours. Supervisors should consult with Human Resources before approving flex hours for non-exempt employees.

2. Employees who are exempt from overtime under the FLSA do not work a specified number of hours per week; they may exceed 40 hours in a workweek without earning overtime pay. Flexible work arrangements do not convert an exempt position to a non-exempt position; if the demands of the job require the employee to work more hours than the flex arrangement reasonably allows, or to work at a specific time or place that conflicts with the arrangement, then the flex arrangement will have to be modified (or not used during the period in question). In all cases, the primary consideration is the employee’s ability to meet all usual expectations for performance of the work.

3. Not all positions or job assignments are suitable for flexible work schedules, telecommuting or job sharing. If one position within a department is found to be suitable for such an arrangement, it does not necessarily mean that other positions may also be suitable. Principles of efficiency, fairness, department morale, and accountability must all be taken into consideration when reviewing each flexible work arrangement.

4. Flexible work arrangements should be confirmed in writing, signed by both the supervisor and the employee, and kept in the employee’s file along with performance plans and reviews. Such writings are not contracts, but may help avoid misunderstandings about expectations. Flex plans are always subject to change or termination, at the supervisor’s discretion, in the best interests of the work unit and the institution.

5. Both the employee and the supervisor have responsibilities to assure that the flexibility agreed to does not interfere with the employee’s ability to perform his or her job duties, or of the work unit to operate as intended. Established work hours for the unit based on the job responsibilities, availability of others or of resources, and team arrangements must be taken into consideration when flex time or telecommuting is allowed.
6. A flex plan must not have the effect of changing the employee’s rate of pay, the manner in which the employee is paid, or the employee’s grade or title.

7. An employee who requests a flexible work arrangement is not necessarily entitled to receive additional expenses, equipment, supplies, or travel time provided in order to accommodate the altered schedule or location. However, these considerations should be taken into account in the department’s budget and operational planning. For example, when replacing computers, a department head may decide to furnish some employees laptops instead of desktop models in order to facilitate telecommuting. Commuting to and from home or an alternate work location is not to be considered reimbursable travel because of a flexible work arrangement.

For reference and examples of forms that may be used for flexible work arrangements, see: www.colorado.gov/cs/Satellite/DPA-DHR/DHR/1243429549317. Human Resources may be contacted for questions related to flexing work hours or telecommuting at 491-MyHR (6947).

Timeclock Record Keeping

The Fair Labor Standards Act (FLSA) requires that time records be certified by both the employee and the supervisor.

http://www.hrs.colostate.edu/hr-liaisons/timeclock-recordkeeping.html

1. Timeclock – For departments recording hours worked via a timeclock, the supervisor’s certification can be based on the supervisor’s approval of the hours in the HR system. The employee must sign the final timesheet on which their pay is based for two reasons: 1) The supervisor has access to edit the employee’s hours worked; 2) Some timeclock interfaces do not require user authentication and the employee must certify that he worked the stated hours.

2. Timecard – The employee and the supervisor must sign the timecard on which the employee’s pay is based.

DEPARTMENT HEAD RESPONSIBILITIES

CSU HUMAN RESOURCES MANUAL
Leave Policies (Faculty and Administrative Professional)
http://www.hrs.colostate.edu/pdfs/hrs-manual-2-faculty-admin-pro.pdf
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Department heads are responsible for maintaining records of sick and annual leave earned and taken for all eligible employees in their departments, for retaining written requests for funeral leaves showing relationship to the deceased and reason for the number of days requested, and retaining copies of court summons which require jury or court leave. Employees will be paid for time on accumulated leave (sick or annual); however, department heads must ensure that a Leave Without Pay personnel action has been submitted through the HR Personnel/Payroll system when the employee has used all leave and has not returned to work. Failure to submit the form on a timely basis could result in overpayment to the individual. In the case of illness, accumulated sick leave will be used first, then accumulated annual leave, and finally leave without pay.

STATE CLASSIFIED EMPLOYEES (ADDITIONAL INFORMATION)

DEPARTMENT HEAD RESPONSIBILITIES
Department heads are responsible for: maintaining records of sick and annual leave earned and taken for all eligible employees in their departments; retaining written requests for bereavement leave showing relationship to the deceased and reason for the number of days requested; retaining documentation on military leave; retaining copies of court summons which require jury leave; documenting the need for, and use of, unpaid victim protection leave, short-term disability leave or any other type of unpaid leave; retaining documentation on the use of administrative leave; and, for placing covered employees on Family Medical Leave and monitoring the use of such leave. Requiring an employee to maintain a specified leave balance is prohibited.

Employees will be paid for approved time off on accumulated sick or annual leave. Department heads however, must ensure that a leave without pay personnel action has been processed through the Personnel/Payroll System when the employee has used all leave and has not returned to work. Failure to submit the action on a timely basis could result in over payment to the individual. In the case of illness, accumulated sick leave will be used first, then accumulated annual leave and finally leave without pay.

15. Hourly Timesheet

The supervisor should record all hours worked by state classified hourly employees on the Hourly Timesheet. This form is also used to record regular state classified excess hours, shift Differential and overtime.

16. Colorado State University Time Sheet and Overtime Form (30-5-70)

State fiscal rules require that the individual Time Sheet and Overtime Form be completed for each state classified employee eligible for overtime. Personnel who use time clocks or comply with other detailed time accounting systems which provide required data may be exempted from form 30-5-70 requirements upon department head application to and approval by the Controller or the Vice President for University Operations. For each other employee eligible for overtime, the immediate supervisor should establish and maintain a form at the start of each fiscal year. After close of the fiscal year all forms should be retained by the respective department for five years.

17. Overtime Approval and Recording

Overtime may be authorized either orally or in written form, as designated by each department. Those requiring prior written authorization may utilize the Usage Request and Authorization
Certificate of Performance of Overtime (Form 30-1-73).
One form is to be completed for each employee, or group of employees, planning to perform overtime. The department head or other authorized individual must sign this form before any overtime work is performed.

In emergency situation, the supervisor may authorize overtime prior to an official request. However, this form shall be filled out and signed by the appropriate supervisor or manager as soon as possible after commencement of the work.

CSU HUMAN RESOURCES MANUAL
http://www.hrs.colostate.edu/pdfs/hrs-manual-3-state-classified.pdf
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Processing Excess Hours, Shift Differential and Overtime
Excess hours, shift differential and overtime for salaried employees are normally reported on the Hourly Timesheet and then processed for payment via the Monthly Time File. Time files will be electronically transferred monthly and employees will be paid in the month following the month the excess hours, shift differential or overtime occurred.

Processing Hours Worked by State Classified Hourly Employees
Hours worked by state classified hourly employees should be reported on the Hourly Timesheet and then processed for payment via the Hourly Time File unless a time clock or other special time recording system is used which provides the basic data and certifications. Hourly time files will be electronically transferred biweekly and employees will be paid biweekly according to the schedule shown in Appendix 2.