


FLORIDA HIGHWAY PATROL POLICY MANUAL

	SUBJECT DUTY/LEAVE	POLICY NUMBER 5.04
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5.04.01 PURPOSE

To provide Florida Highway Patrol members with established guidelines governing duty assignment and leave requests.

5.04.02 AUTHORITY

Chapters 110, 115, and 321, Florida Statutes

Chapter 60L-34, Florida Administrative Code, Attendance and Leave

Federal Fair Labor Standards Act (FLSA)

DHSMV Policy #3.03, Assignment to Administrative Leave for Formal Investigation or to Alternate Duty

DHSMV Policy #5.01, Attendance and Leave

5.04.03 POLICY

This policy is established to provide guidance in matters of duty and leave, and to implement procedures for all members while balancing the needs with the overall mission of the Florida Highway Patrol.

5.04.04 DEFINITIONS

- A. **ADMINISTRATIVE LEAVE** – Authorized leave with pay not charged against a member's accrued leave and does not count as hours worked for overtime purposes.
- B. **CARETAKER** – The primary provider of direct care for a person who is ill, injured, or requires well care check-ups when the member's presence is necessary.
- C. **IMMEDIATE FAMILY** – Includes the member's spouse and the great grandparents, grandparents, parents, brothers, sisters, children and grandchildren of both the member and the spouse as defined in Chapter 60L-34, Florida Administrative Code.

5.04.05 OBJECTIVES

- A. To provide guidelines for reporting for duty.
- B. To provide information on the types of leave available and procedures for the use of leave.

5.04.06 RESPONSIBILITIES

- A. Members are responsible for accurately entering their hours worked and/or leave taken on at least a weekly basis in the People First system.
- B. Supervisors are responsible for:
 - 1. Reviewing members' People First time entry for accuracy.
 - 2. Verifying that a member requesting to use leave has accrued a sufficient amount of leave credits prior to authorizing the leave.
 - 3. Ensuring that adequate staffing will be available prior to authorizing a member to take leave.
- C. To determine whether other alternative work schedules are appropriate, District Commanders shall review personnel assignments and determine which members have routine and predetermined travel between the member's residence and work location.

5.04.07 PROCEDURES

A. REPORTING FOR DUTY

- 1. General
 - a. Members will report for duty as scheduled unless, otherwise authorized by an appropriate supervisor.
 - b. Members will use radio code "10-58" when entering their work zone and "10-57" when leaving their work zone.
 - c. Upon reporting for duty, members will ensure that they are properly equipped and will make themselves aware of any information necessary for the proper performance of their duties.
 - d. Members assigned to special duties will report for duty according to the order authorizing the special assignment. In all cases which involve members on special assignment traveling from one part of the state to another, whether in the district of assignment or traveling across other districts, the member shall be on patrol and responsible for all duties and responsibilities of a Highway Patrol officer. All members will place special emphasis on providing assistance to disabled vehicles and will adhere to the posted speed limit.
 - e. If, due to an illness or other circumstances, a member cannot report for duty at the assigned time but will be late, the member

will contact his/her supervisor before the start of the shift to explain the situation and provide an estimated time of arrival.

- f. Unless an emergency situation exists, any member unable to report for duty due to illness or injury shall personally notify his/her immediate supervisor at least two hours prior to the beginning of their shift. In the event the immediate supervisor is not available, the next in line supervisor available or supervisor on call shall be notified. Members are expected to contact the supervisor on each day of absence prior to the beginning of the assigned shift, except during periods of extended illness when prior arrangements have been made with the immediate supervisor.
 - g. Members are expected to report for duty on their assigned shift except when prevented by injury, illness, or emergency situations. Any leave of absence with or without pay shall be approved prior to the leave commencing, except when emergency situations prevent such action.
 - h. Any member who, without the approval of a supervisor, fails to appear when scheduled to work shall be considered absent without authorized leave and will be disciplined according to the Department's disciplinary standards. In addition, their absence will be shown on the People First timesheet as unauthorized leave without pay.
 - i. Any time a member has insufficient leave to cover an absence, the time will be entered as leave without pay on the People First timesheet. All leave without pay must also be reported to the Personnel Attendance and Leave Office at the time it occurs.
 - j. Members with assigned Division vehicles shall utilize the FHP radio, or SmartCop if assigned to an office site or headquarters when checking into and out of service.
2. Members whose duties are not normally associated with office duties and whose primary duties require them to be available for immediate assignment, or first line supervision requiring their presence in the assigned patrol area, will be considered to begin and end their work shift when they check on-duty and off-duty.
3. Members whose work location is an office site or headquarters and which require routine travel between the member's residence and work location will begin their work shift upon arrival at the work location. The work shift will be completed at the work location.
- a. Routine and predetermined travel between the residence and work location will not be considered part of the work shift and shall not be reported as work time on any report.
 - b. Exceptions

- (1) Time performing actual law enforcement functions during routine and predetermined travel, which is clearly law enforcement action, will be considered as time worked.
 - (2) Travel from a member's residence or regular work location to another location, which is not considered routine and predetermined, will be considered time worked.
- c. Those members with assigned Division vehicles shall advise the appropriate FHP Regional Communications Center that they are in-service when performing routine travel between their residence and work location. Upon arrival at the work location or residence, the member shall notify the FHP station.

B. WORKING A FULL SHIFT

1. Members are required to remain on duty for their entire assigned shift unless excused by a supervisor. During the shift, members will carry out their assigned duties to the best of their ability. If any member must leave duty before the end of their shift due to illness or other circumstances, the member must inform a supervisor before leaving.
2. Duty hours and zone assignments will be scheduled by the sub-district lieutenant in accordance with the needs of the district within the following parameters:
 - a. Scheduling may vary by troop and by county within each troop based upon needs of individual geographic areas to include, but not limited to:
 - (1) Availability of Troopers.
 - (2) Traffic crash experience/traffic density by:
 - (a) Day of week.
 - (b) Time of day.
 - (c) Location.
 - (3) Other calls for service.
 - b. Scheduling will, at a minimum, comply with the current Law Enforcement Bargaining Unit Agreement.
 - c. Generally, Recruit Troopers are not to be placed on the midnight shift until they have completed six months of service on the road. Recruit Troopers who have graduated from a Transitional Academy class and have prior actual law enforcement experience will be eligible to work a midnight shift upon release to solo patrol duties. Troop Commanders should consider the following in making their decisions:

- (1) The amount of prior actual law enforcement experience the new Trooper has.
 - (2) The new Trooper's familiarity with the area in which they will patrol.
 - (3) The level of supervision available on the midnight shift.
 - d. Zones may be assigned permanently or rotated, based on the needs of the district. Monthly schedules showing zone assignments will be made in conjunction with the monthly work schedule. Local supervisors may make daily adjustments to the zone schedule.
3. Troop Commanders may authorize non-standard work schedules and may utilize permanent or rotating shifts and days off. The workweek will consist of five eight-hour days with two days off, four 10-hour days with three days off, or a 12-hour shift with a specified set of days off within a two-week, 80 hour work cycle. Members who prefer a shift with a meal break will be permitted to have a nine-hour shift with a meal break (for those working eight-hour days).

C. WORK BREAK / MEAL PERIOD

1. Members may take one 15-minute work break during the first half of the work shift and one 15-minute work break during the second half of the work shift. No single work break shall exceed 15 minutes. A member may not accumulate unused work breaks. Work break times should not be authorized for covering a member's late arrival, early departure or extended lunches.
2. If the member has a nine-hour shift, the member may also take a meal period that will not exceed 60 minutes.
3. At each work break or meal period, the member will notify the FHP Regional Communications Center with the appropriate 10 code, along with the member's location. (Ex. "309 will be 10-10 at ..."). At the end of any work break or meal period, the member will notify the FHP Regional Communications Center that he/she has returned to duty.
4. Members on a work break or meal period will be subject to call.
5. Except as authorized by the District Commander or designee, no more than two members shall take a work break / meal period at the same time and same location.

D. CALL BACK AND ON-CALL ASSIGNMENT

1. In emergency situations, members may be called back to active duty at a time not contiguous with the member's scheduled hours to work. In these situations, members will be required to report back to duty and to carry out duties assigned by supervisors. The member will be credited for the actual time worked or a minimum of four hours, whichever is greater.

2. Members who are covered by the law enforcement bargaining unit are entitled to compensation for on-call assignment and will be compensated pursuant to procedures of the Department.

E. OVERTIME AND EXTRA HOURS

Members may be required under certain conditions to remain on duty past the regularly scheduled end of their shift.

1. Included Members

- a. Included members who are required to work extra hours beyond their regular shift must record the extra hours on their People First timesheet.
- b. To avoid overtime liability, supervisors are expected to make every effort to offset extra hours in the same work period in which they were earned by adjusting member work schedules.
- c. Anytime that an included member works in excess of the hours set for the established work period, the member may choose to either be paid at time and a half for the extra hours or earn Federal Fair Labor Standards Act (FLSA) Special Compensatory Leave at a rate of one and one-half times the number of excess hours worked.
- d. Members may accrue up to 100 hours of FLSA Special Compensatory Leave. However, Recruits in training at the FHP Academy are exempt from the 100-hour maximum accrual while they are in trainee status.
- e. FLSA Special Compensatory Leave not used by the end of month in June and December will be paid to the member.
- f. FLSA Special Compensatory Leave may be taken in any increment at the discretion of the member unless the request would result in undue disruption.

2. Excluded Members

- a. Excluded Career Service members will receive regular compensatory leave credits for hours worked in excess of the hours in the monthly work period.
- b. Regular compensatory leave is credited on an hour-for-hour basis.
- c. Excluded members may accrue a maximum of 240 hours of regular compensatory leave.

3. Required Court Appearance

- a. Members who are required to appear in court in connection with their official duties will appear and testify as directed, even though

the time of appearance may fall outside their regularly assigned work shift.

- b. A member subpoenaed to appear as a witness in a job-related court case, NOT during the member's regularly assigned shift or immediately following the regularly assigned shift, shall be granted a minimum of two and one-half work hours or actual hours worked for the appearance, whichever is greater.
- c. Witness in Duty-Related Cases - A member subpoenaed in the line of duty to represent a state agency as a witness or defendant shall NOT be granted administrative leave. Such appearance is considered to be part of the member's job assignment and the member will be entitled to per diem and travel expenses.
- d. Members who appear as official witnesses to testify as stated above shall be entitled to retain the daily witness fees for any appearances occurring entirely or in part outside of their regularly scheduled duty shift, exclusive of the mileage allowance, if they do not receive overtime pay pursuant to section 4) below. If the appearances occur completely within regularly scheduled shifts, the member shall submit to the Department any witness fees received.

4. Court Overtime Pay

Upon availability of funds, overtime pay may be authorized for duty-related court appearances by included class members with the following provisions:

- a. Members must notify their supervisor when a subpoena is received that requires the member to appear in court outside the member's regular shift. All overtime payment for court must be approved in advance by a supervisor. The supervisor is responsible for verifying that the appearance meets the guidelines in this policy before approving the appearance for overtime pay.
- b. Generally, only the arresting or citing member may earn overtime pay. In addition, the following are eligible for overtime payment:
 - (1) FHP pilots in aircraft initiated cases
 - (2) Operators of speed measuring devices
 - (3) Breath test operators employed by the Division are also authorized overtime payment when subpoenaed to testify in cases in which they conducted the breath test.
 - (4) The crash investigator and Traffic Homicide Investigator in fatal crash cases

- (5) Other members subpoenaed as witnesses may be approved for overtime pay by a supervisor on a case-by-case basis.

Excluded members who have worked extra hours at the end of their monthly work period will accrue regular compensatory leave on an hour-for-hour basis for the extra hours worked. The maximum balance that may be accrued is 240 hours.

- c. Overtime will only be paid for those hours in excess of the hours set for the established work period. If leave is taken during the established work period, the hours worked attending court shall be used to offset those hours on an hour-for-hour basis.
- d. The overtime pay rate shall be one and one-half times the member's regular hourly rate.
- e. Collective bargaining contract provisions for minimum hours for court appearances outside the member's regular shift shall apply to overtime pay.
- f. Members requesting overtime pay shall complete the Court Overtime Pay Program Form #1. The form, with subpoenas for each appearance attached, shall be submitted to the member's supervisor on or before the Friday of the week following the appearance. Subpoenas are required when applying for overtime pay.
- g. Members shall not receive overtime pay when they are placed on standby or for court-related telephone calls. Members on standby shall not report to court unless instructed to by the court, state attorney, other officer of the court, FHP supervisor or court liaison.
- h. Members paid overtime for court appearances shall not retain the daily witness fees or mileage. Such fees will be submitted to the Department.
- i. Troop Commanders shall ensure that the Court Overtime Payment Program Form #2 is completed for the previous month and forwarded to the Office of Strategic Services on or before the seventh of the month.

F. SICK LEAVE

1. Full-time Career Service members earn 8.67 hours (8 hrs. 40 mins.) of sick leave for each monthly pay period worked. There is no limit on the number of hours of unused sick leave a member may accrue.
2. Use of sick leave shall not be authorized prior to the time it is earned and credited to the member and should only be used with the approval of the proper authority. Sick leave shall be authorized only for the following purposes:

- a. The member's personal illness, injury, or exposure to a contagious disease, which would endanger others. Personal illness includes but is not limited to, a disability caused by or contributed to pregnancy, miscarriage, abortion, childbirth, and recovery there from.
 - b. The member's personal appointments with a doctor, dentist, or other recognized practitioner when it is not possible to arrange such appointments for off-duty hours.
 - c. Illness, injury, medical surgery or well-care check-ups of the member's spouse, the children or parents of the member or the spouse, or a person for whom the member or spouse has a caretaker responsibility, when the member's presence is necessary.
3. After three workdays or partial workdays of absence in any 30-calendar day period, the supervisor may require medical certification of the member's illness or injury before authorizing additional sick leave. After ten consecutive days of absence, the member is required to submit a medical certification before any additional use of accrued leave credits or leave without pay can be authorized.
4. Abuse of sick leave by reporting ill or injured when actually fit for duty shall be grounds for disciplinary action. A member while on sick leave for any reason is expected to be at his/her residence or to have notified the immediate supervisor of any other location necessary.
5. Supervisors are required to be familiar with the provisions of the Federal Family and Medical Leave (FMLA) so they can ensure that members who fall under the Act's provisions are properly noticed of their entitlement to FMLA. FMLA notice to members and information about the requirements is provided through the Office of Employee Relations.
6. The Department maintains a sick leave pool, which allows eligible employees to voluntarily pool sick leave. Sick leave pool benefits are provided to members of the pool who are seriously ill or severely injured and have exhausted all of their accrued sick, compensatory and annual leave. The intent is that the employee will return to duty as early as possible. Rules of the sick leave pool may be obtained from the Troop Commander or from DHSMV Policy #5.15.
7. The Department has a sick leave transfer plan that allows eligible employees to donate sick leave credits to a department member or an employee of another state agency who has suffered a documented illness or injury and has exhausted all of their accrued sick, compensatory and annual leave. More information can be found in DHSMV Policy #5.16.

G. ANNUAL LEAVE

1. Full-time Career Service members earn the following number of hours for each full calendar month of employment and based upon the number of years of service.
 - a. Up to five years eight hours and 40 minutes (8.67 hours)
 - b. Five to 10 years 10 hours and 50 minutes (10.83 hours)
 - c. Over 10 years 13 hours
2. All Career Service members who have accrued annual leave in excess of 360 hours at the close of business on December 31 of each year will have the excess annual leave transferred to their sick leave balance on an hour-for-hour basis.
3. For Senior Management Service and Selected Exempt Service members, at the close of business on the day before the member's anniversary date, all annual leave credits in excess of 480 hours will be converted to sick leave on an hour-for-hour basis.
4. A Career Service member who separates from state government with twelve continuous months of service will be paid for unused annual leave up to a lifetime maximum of 240 hours.
5. A Senior Management Service or Selected Exempt Service member who separates from state government will be paid for unused annual leave up to a maximum of 480 hours, with the current year's accrual prorated.

H. HOLIDAYS

1. The following holidays, as provided by Section 110.117, Florida Statutes, shall be observed as paid holidays:

New Year's Day, January 1st

Martin Luther King, Jr.'s Birthday, third Monday in January

Memorial Day, last Monday in May

Independence Day, July 4th

Labor Day, first Monday in September

Veterans' Day, November 11th

Thanksgiving Day, fourth Thursday in November

Friday after Thanksgiving

Christmas Day, December 25th

If any holiday falls on a Saturday, the preceding Friday shall be observed as a holiday. If any holiday falls on a Sunday, the following Monday shall be observed as a holiday.

2. Use of annual leave and the personal holiday must be requested by the member and approved by the appropriate supervisor in advance of its use. Use of annual leave shall not be authorized prior to the time it is earned and credited to the member.
3. Special Compensatory Leave – Leave that is earned as a result of extra hours worked during an established work period which contains a holiday, or extra hours worked when a facility is closed under an Executive Order during emergency conditions.
4. When an included member is required to work on a holiday observed pursuant to the State's Personnel Rules, the member is credited with special compensatory leave equal to the time worked on the holiday.
5. When the holiday falls on the member's regular day off, the member is credited with eight hours of special compensatory leave.
6. Special compensatory leave shall be taken with the mutual agreement of the member and the supervisor within 60 calendar days of the holiday worked, as outlined in the current law enforcement bargaining agreement. If within the 60-day period a mutual agreement is not met, the supervisor shall schedule the time to be taken in accordance with the Memorandum of Understanding (MOU) effective January 1, 2012. The MOU can be viewed at <http://safetynet/FHP/Documents/FHP%20MOU%209-2011.pdf>

I. REQUESTING ANNUAL LEAVE

1. Members desiring to use annual leave shall obtain approval from a supervisor prior to the commencement of such leave and must be in compliance with the MOU regarding special compensatory leave effective January 1, 2012. Every effort should be made to obtain the approval from the member's immediate supervisor.
2. Requests for leave of eight hours or more should be made using the member's state email account.
3. Requests for leave of 40 continuous hours or more should be made at least 60 days in advance. When two or more members request leave for the same time period, wholly or partially, and all such requests cannot be approved, decisions will be made with due regard for seniority and agency need. However, the Division may make reasonable accommodations for ensuring the fair distribution of leave during favored holidays.
4. Nothing in this policy shall prevent a supervisor from revoking the approval of any leave request when special or emergency situations arise. Every effort will be made to not unnecessarily impose undue hardship upon the member due to such revocation of approval.

J. LEAVE OF ABSENCE

Leave of absence may be with or without pay, as outlined in DHSMV Policy #5.01, Attendance and Leave.

1. Leave of Absence with Pay – Administrative Leave

- a. Jury Duty – According to Florida Statutes, Section 40.013(2)(b), any full-time federal, state, or local law enforcement officer or such entities' investigative personnel shall be excused from jury service. However, non-sworn personnel summoned for jury duty will be granted administrative leave based on the total hours served on jury duty, not to exceed the number of hours in the employee's regular workday.
- b. Witness in Non-Duty Related Cases – A member subpoenaed as a witness in a court or administrative hearing, which is not duty-related and does not involve personal litigation or service as a paid expert testimony, shall be granted administrative leave. The member may retain the witness fee; however, the Division shall not reimburse the member for meals, lodging, or travel expenses incurred as a result of the service. Administrative leave will not be granted to a member for personal litigation or service as a paid expert witness. Annual leave may be granted at the discretion of the Division, if enough credit has been accumulated.
- c. Death in the Family – A member shall, upon request, receive up to 16 hours of administrative leave for the death of his/her spouse and the parents, grandparents, brothers, sisters, children and grandchildren of both the member and the spouse. (This also applies to current step, half and adoptive family.) The member must provide his/her supervisor the name and relationship of the family member. This information must be included in the comment section of the member's People First timesheet.
- d. Other Leave – Administrative leave may be used also for other circumstances as outlined in the Attendance and Leave Procedures Guide for DHSMV Members, located in DHSMV Policy #5.01, including, but not limited to military training / leave, examinations and interviews before a state agency, and formal investigations.

2. Leave of Absence without Pay

Leave of absence without pay may be used for military service, parental leave, Family Medical Leave and for other reasons as specified in the Attendance and Leave Procedures Guide for DHSMV Members, located in DHSMV Policy #5.01.

3. Use of Leave Of Absence

The granting of any leave of absence with or without pay shall be in writing and shall be approved by the proper authority within the

Department. A member of the Division who is granted a leave of absence, with or without pay, shall be a member of the State while on such leave, and shall be returned to the same position or a different position within the same class and same work location upon termination of the approved leave of absence, unless the Director and the member agree in writing to other conditions and terms, under which such leave is to be granted.

K. DISABILITY LEAVE

A member of the Florida Highway Patrol is eligible for disability leave according to Chapter 60L-34, Florida Administrative Code.

Disability – In Line of Duty

Members shall immediately report all on-the-job injuries to their immediate supervisor or in any event within 24 hours from the time of injury. Such injuries will be processed in accordance with Chapter 60L-34, Florida Administrative Code, DHSMV Policy #5.20, and FHP Policy 17.09.

L. ASSIGNMENT TO ALTERNATE DUTY

1. Members may be assigned to alternate duty on a temporary basis for reasons including, but not limited to, the following:
 - a. When a member is under formal investigation for a disciplinary offense and it is not essential to the investigation that they be removed from the workplace,
 - b. In cases where the member need not be placed on administrative leave for investigation while undergoing a fitness for duty, a member may be placed on alternate duty after a member has received notification that a fitness for duty examination is scheduled and during the time when the Department is making a determination of the action to be taken as a result of the examination; or
 - c. When a member is temporarily unable to perform essential duties of their current classification for medical or other documented reasons.
2. Any member who discharges their firearm in an officer involved shooting incident or whose actions or use of force results in serious physical injury or death of another in a duty-related incident shall immediately be placed on administrative leave or alternate duty for a minimum period of three days in order to remove the member from the associated trauma. Prior to returning to regular duty, the member will be evaluated by an agency-authorized physician. **Under no circumstances will this be construed as disciplinary action.**
3. Alternate duty includes duties, which are not normally performed as a part of the member's current position (e.g., clerical work in the station).

Alternate duty assignments are shown as hours worked on the member's People First timesheet.

4. Members may not use the Patrol vehicle, act as a Law Enforcement Officer, or wear the Florida Highway Patrol uniform during this period.
5. Any alternate duty assignment for medical reasons, including Workers' Compensation, will be coordinated with OER and supported by a current medical certification completed by the treating health care provider. Medical certification must be submitted to cover all periods of any alternate duty assignment.

A guide to the roles and responsibilities for administrative leave for investigations and alternate duty assignments are located within DHSMV Policy #3.03.