Chapter 2:
Classification & Compensation

Administrative/HR Manual for Virginia Local Departments of Social Services

TABLE OF CONTENTS

PART I: CLASSIFICATION 6
Policy Statement 6
Scope 6
SECTION I: CLASSIFICATION STRUCTURE & COMPONENTS 7
Occupational Title Descriptions 7
Employee Performance Plan & Evaluation (EPPE) 7
Local Position Requests 7
Position Actions & Types 8
Position Actions 8
Position Types 8
Employee Categories 8
Organizational Charts 9
PART II: COMPENSATION 10
Policy Statement 10
Scope 10
SECTION I: LOCAL COMPENSATION PLAN 11
Purpose, Contents, & Selection of Salary Ranges 11
Selection of Salary Ranges 11
Maintenance of the Local Compensation Plan 12
Local Board 12
Local Director 12
VDSS HR 12
Pay Factors 12
Types of Pay Practices 14
Starting Pay 14
Promotion 14
Voluntary Lateral Transfer 14
Demotion 15
Redefinition of a Position 16
Merit Increase 16
Local Increase 17

State Salary Adjustment 17
In-Band Adjustment 17
Range Revision 18
Temporary/ Acting Pay 19
On-Call Compensation 20
Eligible Employees 20
LDSS On-Call Compensation 20
Compensation for On-Call Duty 20
Compensation for Providing Direct Service During On-Call Duty 20
On-Call Leave 21
SECTION II: FAIR LABOR STANDARDS ACT (FLSA) 22
Hours of Work 22
Calculating Hours Worked 22
Work Activities 22
Non-Work Activities 23
Volunteered Labor 23
Special Situations 23
Occasional & Sporadic Work 23
Lectures & Training Time 24
Paid Time Off 24
Travel Time 24
Travel During Work Hours 24
Overnight Travel 24
Recording Hours Worked 25
Non-Exempt Status & Overtime 25
Pay & Compensatory Leave 25
Procedures for Approval of Overtime Hours 25
Calculating the Regular Rate of Pay 26
Exempt Status 26
Determining Exemption Under the FLSA 26
Executive Exemption Criteria 26
Administrative Exemption Criteria 27
Professional Exemption Criteria 27

Exemption Review Process 27
Certification of Exempt Employees 27
Changes to Exemption Status 28
Highly Compensated Employees 28
Special Provisions for Local Government 28
Compensatory Leave 28
Flexible Work Schedules 28
Volunteer Services 28
Recordkeeping Requirements of the FLSA 29
Recordkeeping Requirements for Non-Exempt Employees 29
Recordkeeping Requirements for Exempt Employees 29
Violations 30
Independent Contractors 30
SECTION III: LEAVES ASSOCIATED WITH COMPENSATION 31
Compensatory Leave 31
Purpose of Compensatory Leave 31
Eligibility 31
Agreement Required 31
Accrual of Compensatory Leave 32
Rate 32
Maximum Amount 32
Duration 32
Cash Out 32
Schedule Adjustments 32
Use of Compensatory Leave 32
Scheduling of Compensatory Leave 32
Reasons for Use 32
Treatment of Compensatory Leave Upon Change of Status 33
Payment When Leaving the LDSS 33
Payment Upon Death 33
Rate of Payment 33
Retention of Accrued Compensatory Leave 33
Special Duty Leave 33

Purpose of Special Duty Leave 33
Distinguishing Special Duty Leave from Compensatory Leave 33
Criteria for Granting Special Duty Leave 34
Earning Special Duty Leave 34
Non-Exempt Employees 34
Exempt Employees 34
Rate & Pay Out 34
Use 35
Duration 35
Reasons for Use 35
Authorization for Use 35
Treatment of Special Duty Leave Upon a Change in Status 35
Payment When Leaving the LDSS 35
Payment Upon Death 35
Rate of Payment 35
On-Call Leave 37
Purpose of On-Call Leave 37
Earning On-Call Leave 37
Use of On-Call Leave 37
Cashing Out On-Call Leave 37
On-Call Leave Authorization 37
Treatment of On-Call Leave Upon a Change in Status 37
Payment When Leaving the LDSS 37
Payment Upon Employee's Death 37
Rate of Payment 37
Compensation-Related Leaves Chart 38
PART III: HOLIDAYS 40
Policy Statement 40
Scope 40
SECTION I: HOLIDAY SCHEDULE 41
General Information 41
Days Observed as Holidays 41
Other Holidays 41

When Holidays Fall on a Weekend Day 41
Deviation to the Locality Holiday Policy 41
Compensation Issues 42
Required Work on a Holiday 42
Religious Observances 42
Requests 42
Interactive Process 42
Determining Undue Hardship 42
Compliance with Laws & Regulations 43
GLOSSARY: 44
Part I: Classification 44
Part II: Compensation 45
Part III: Holidays 47

PART I: CLASSIFICATION

POLICY STATEMENT

The Virginia State Board of Social Services establishes a job classification structure[1] for the Virginia Local Departments of Social Services (LDSS) that provides a structured framework to accurately categorize and organize positions within LDSSs based on their distinct duties, responsibilities, and qualifications. A job classification structure promotes transparency, fairness, and consistency in managing an LDSS workforce by providing clear job descriptions, facilitating equitable compensation practices, supporting career development opportunities, and ensuring compliance with legal and regulatory requirements.

The Virginia Department of Social Services (VDSS) Division of Human Resources (HR) is responsible for developing and maintaining the classification structure. When changes are needed, the VDSS HR Classification and Compensation Team submits a proposal to the State Board for approval and advises LDSSs of all changes and any mandated actions.

SCOPE

This policy applies to all employees of Non-Deviating (ND) LDSS or Partially Deviating (PD) LDSS.

Additional Information:
Per § 22VAC40-675-110 of the Administrative Code of Virginia, in local jurisdictions where there is a classification policy that applies uniformly to all local government employees, the local department of social services may deviate to locality policy, provided the deviation is approved by both the VDSS HR Policy Team (**hr.employeerelations@dss.virginia.gov**) and the VDSS Classification & Compensation Team (**hr.class-comp@dss.virginia.gov**) as being in substantial conformity with this policy. Localities may choose to deviate to the locality policies for only classification policies, only compensation policies, or both classification and compensations policies. Compensation is covered in Part II.

[1] § 22VAC40-675-60

SECTION I: CLASSIFICATION STRUCTURE & COMPONENTS

The classification structure for LDSSs is consistent with federal Standard Occupational Categories (SOC). Like the SOCs, the LDSS classification structure categorizes jobs by professions, and all jobs are classified to an occupational title.

OCCUPATIONAL TITLE DESCRIPTIONS

The Occupational Title Description (OTD) serves as the basis for job classification at the LDSS level. VDSS HR provides written descriptions of the occupational titles available for LDSS use. The OTD includes:

1. A general description of work.
2. General work tasks/duties.
3. Necessary knowledge skills, and abilities (KSAs).
4. A minimum amount of education/training required to perform the work.
5. Other job requirements.

VDSS HR uses OTDs as guides when determining the positions that may be allocated to a respective occupation. OTDs are not intended to prescribe the duties and responsibilities of any given position or to preclude the local director's authority for assigning duties or controlling the work of any staff member.

EMPLOYEE PERFORMANCE PLAN & EVALUATION (EPPE)

The Employee Performance Plan & Evaluation (EPPE) contains the occupational title summary and a list of core/essential responsibilities and qualifications of the position. LDSSs must develop an EPPE for each position. A particular position may vary from another position with the same position occupational title due to workload priorities, external factors, or local needs. When this variation occurs, the job duties should be reprioritized.

LOCAL POSITION REQUESTS

Whenever there is a need to establish, abolish, reallocate, or redefine a position, the local director submits a signed Local Position Request Form, an organizational chart, and an EPPE to VDSS HR for review and approval, prior to making any position changes.

POSITION ACTIONS & TYPES

POSITION ACTIONS

1. **Establish:** The creation of a new position
2. **Abolish:** The elimination of an existing position
3. **Reallocate**: The reclassification of a vacant position from one occupational title to another occupational title.
4. **Redefine:** The reclassification of an encumbered position in recognition of a gradual, unplanned change in duties. A redefinition may be upward, downward, or lateral.

POSITION TYPES

1. **Regular:** A position with an indefinite duration with no expiration date. Depending upon circumstances, the regular position may be filled by an employee whose status is "probationary," "regular," "temporary," or "emergency."
2. **Restricted:** A position established for a specific time with an end date. A restricted position may be filled by an employee whose status is "probationary," "restricted," "temporary," "or "emergency."
3. **Temporary:** A position established to meet a special need of the LDSS. The duration of a temporary position typically does not exceed twelve (12) months, and it is not renewed or extended. Only an employee whose status is either "temporary" or "emergency" may fill this type of position.
4. **Emergency:** An emergency position may be set up for one (1) year's duration to meet special or immediate needs of the LDSS. An emergency position may only be filled by an employee whose status is "emergency."
5. **Seasonal:** A position that is continuous with no end date and may be filled by any employee whose status is "temporary" or "emergency." It may be filled for time periods when there is a need for extra help (e.g., when the Fuel Assistance Program is active).

EMPLOYEE CATEGORIES

Any individual employed by an LDSS has no guarantee of employment for a particular term and may at any time be terminated in accordance with policy. Local departments should confer with their local jurisdictions regarding categories of employees and hours worked to ensure compliance with laws requiring provision of benefits (i.e., Patient Protection and Affordable Care Act).

1. **Probationary Employee**

   Individuals accepting a new, re-employment, or transfer-in appointment to a regular or restricted position serve a twelve (12) month probationary period. Any individual hired into a regular or restricted position with "probationary" status is employed through a competitive selection process. Probationary employees are notified when they obtain either regular or restricted status (depending

on whether they are in regular or restricted positions). For information about conditional status periods see **Chapter 6** of the LDSS Administrative/HR Manual.

2. **Regular Employee**
   Individuals accepting a new, re-employment, or transfer-in appointment to a regular or restricted position serve a twelve (12) month probationary period. Any individual hired into a regular or restricted position with "probationary" status is employed through a competitive selection process. Probationary employees are notified when they obtain either regular or restricted status (depending on whether they are in regular or restricted positions). For information about conditional status periods see **Chapter 6** of the LDSS Administrative/HR Manual.
3. **Restricted Employee**
   Individual employees in restricted positions obtain "restricted" status upon successful completion of his/her probationary periods. If a restricted employee moves to a regular position or the position occupied by the employee is changed to "regular" status, the employee's status changes from "restricted" to "regular" status.
4. **Temporary Employee**
   Employees with "temporary" status are employed through a competitive selection process. They may occupy "regular," "restricted," "temporary," or "seasonal" positions. A temporary employee is hired with the understanding that the employment is time-limited and does not serve a probationary period. Temporary employees receive and accrue no benefits except those required by law. They are eligible to apply for positions that are recruited through an intra-agency selection process. Normally the "temporary" status of employees in a restricted or regular position does not change during the time of their employment. However, the status of a temporary employee may be changed to "probationary," "restricted," or "regular" if LDSSs determine that the need for the employee is no longer time limited. Time served is credited to part or all of the probationary period.
5. **Emergency Employee**
   Employees with "emergency" status may be employed without going through a competitive selection process. They may occupy "regular," "restricted," "temporary," "seasonal," or "emergency" positions. An emergency employee is hired with the understanding that the employment is time-limited to fill an immediate need of the LDSS. Emergency employees receive and accrue no benefits except those required by law. Emergency employees are not eligible to apply for positions that are recruited through an intra-agency selection process. Emergency employee may work no more than the full-time equivalent of 180 workdays (consecutive or non-consecutive) in a twelve (12) month period.

ORGANIZATIONAL CHARTS

Organizational charts provide an overview of an LDSS' structure and contain occupational titles and position numbers for each position depicted on the organization chart. Each local director is responsible for maintaining an up-to-date organizational chart that includes the local director's signature and date.

PART II: COMPENSATION

POLICY STATEMENT

The Virginia State Board of Social Services establishes a state compensation schedule[1] along with its associated policies to establish a consistent framework. From this framework, each of the Virginia Local Departments of Social Services (LDSS) can tailor its own compensation plan. These plans must guarantee equitable pay for equivalent roles while fostering competitive salaries to both attract and retain talented employees.

The Virginia Department of Social Services (VDSS) Division of Human Resources (HR) is responsible for developing and maintaining the compensation schedule and its components. When changes are needed, the VDSS HR Classification and Compensation Team submits a proposal to the State Board for approval and advises LDSSs of all changes and any mandated actions that require revision of local salaries.

SCOPE

This policy applies to all employees of Non-Deviating (ND) LDSS or Partially Deviating (PD) LDSS.

Additional Information:
Per § 22VAC40-675-110 of the Administrative Code of Virginia, in local jurisdictions where there is a classification policy that applies uniformly to all local government employees, the local department of social services may deviate to locality policy, provided the deviation is approved by both the VDSS HR Policy Team (**hr.employeerelations@dss.virginia.gov**) and the VDSS Classification & Compensation Team (**hr.class-comp@dss.virginia.gov**) as being in substantial conformity with this policy. Localities may choose to deviate to the locality policies for only classification policies, only compensation policies, or both classification and compensations policies. The classification structure and its components are covered in Part I.

[1] § 22VAC40-675-80

SECTION I: LOCAL COMPENSATION PLAN

PURPOSE, CONTENTS, & SELECTION OF SALARY RANGES

The local compensation plan provides a strategic framework for compensation within each LDSS to ensure equal pay for equal work and competitive salaries for attracting and retaining a well-qualified workforce. Every LDSS must annually develop its own local compensation plan and submit it to the VDSS Classification & Compensation Team (**hr.class-comp@dss.virginia.gov**) for review.[2] Additionally, any midyear changes to the plan must also be submitted for approval.

Instructions for completing the local compensation plan are developed by the VDSS HR Classification & Compensation Team and provided to each LDSS. Changes to the Compensation Schedule are included. VDSS HR Classification & Compensation will notify LDSSs of specific timeframes for the submission of the annual local compensation plan and policies. The following section addresses each area of the Local Compensation Plan.

The LDSS' local compensation plan includes the following components:

1. Occupational Titles used by the LDSS.
2. Minimum and maximum salary ranges for each Occupational Title.
3. Pay practices, policies, and procedures for making compensation decisions, to include:
4. Awarding salary increments.
5. Merit Increases.
6. Special compensation for child and adult protective services work.
7. Employee or position status changes.
8. Any other type of approved salary changes.

SELECTION OF SALARY RANGES

Each occupational title is assigned a salary range on the state compensation plan. Exceptions may be granted by the VDSS HR Classification & Compensation Team based on market surveys of salaries paid for similar or related work, the availability of qualified applicants, sources of competition from other employers in the locality, and turnover rate.

The salary ranges selected must maintain the hierarchical integrity of the defined occupational groups and titles within LDSSs and the respective tiers and levels within the groups. A request to modify salary ranges within the state minimum and maximum rates **does not** constitute a deviation as described in § 22VAC40-675-110.

[2] § 22VAC40-675-90

MAINTENANCE OF THE LOCAL COMPENSATION PLAN

Maintenance of the local compensation plan is a shared responsibility of the local board, the local director, and VDSS HR.

LOCAL BOARD

The local board:

1. Approve, adopts, and submits the annual local compensation plan prepared by the local director to VDSS HR for final review and approval.
2. Approves any midyear amendments to the approved local compensation plan and submits changes for review and approval by VDSS HR prior to implementation.

LOCAL DIRECTOR

The local director:

1. Prepares the local compensation plan annually and submits it to the local board and VDSS HR for approval.
2. Monitors the local compensation plan during the plan year and submits local compensation plan amendments, as needed to the local board and VDSS HR for approval.
3. Is responsible for the uniform application of the local compensation plan in an LDSS.

VDSS HR

VDSS HR, specifically the VDSS Classification & Compensation Team (**hr.class-comp@dss.virginia.gov**):

1. Trains appropriate LDSS staff in the strategic development of the local plan.
2. Provides instructions, a template to include salary determination methodologies for the development of local compensation plans, and ensures that it complies with relevant laws, regulations, and policies.
3. Reviews and approves the annual local compensation plans and any mid-year amendments.

VDSS HR also reserves the authority to review agency actions to ensure conformity with the approved local compensation plan.[1]

PAY FACTORS

LDSSs should use appropriate pay factors for determining and justifying pay actions. There are thirteen (13) pay factors that may be considered. All may not apply. Contact the VDSS Classification & Compensation Team (**hr.class-comp@dss.virginia.gov**) for assistance with pay factors.

[1] § 22VAC40-675-120

1. **LDSS Business Need**
   The specific activities and organizational, financial, and human resource requirements that are directly derived from the LDSS' mission.
2. **Budget Implications**
   The short- and long-term financial consequences arising from pay decisions and the management of salary dollars within an LDSS.
3. **Current Salary**
   The candidate or incumbent's current base pay compensation, which may be reported as an hourly wage or a weekly, semimonthly, monthly, or annual salary. Current salary does not include shift differentials, benefits, overtime, or other similar non-base-pay compensation.
4. **Duties & responsibilities**
   The primary and essential work functions performed by an employee or group of employees. Variation in these duties and responsibilities help distinguish one employee from another for comparison purposes.
5. **Internal Salary Alignment**
   A fairness criterion that takes into consideration the proximity of one employee's salary to the salaries of others who have comparable levels of training and experience; similar duties and responsibilities; similar performance; and similar knowledge, skills, abilities, and competencies. Internal salary alignment is determined by the examination of an employee's salary in relation to salaries of comparable co-workers.
6. **Knowledge, Skills, & Abilities (KSAs) and Competencies**
   Elements commonly listed for job requirements, hiring qualifications, or employee credentials. Knowledge refers to information related to a particular job (e.g., principles of social work or accounting). Skills refer to acquired psychomotor behaviors (e.g., operations of personal computer). Abilities are talents, observable behaviors, or acquired dexterity (e.g., analyze and record information). Competencies are the knowledge, skills, and underlying behaviors that correlate with successful job performance.
7. **Long-Term Impact**
   The strategic and financial consequences resulting from anticipated future salary costs, staffing adjustments, efforts to align salaries among employees, considerations for career advancement, and changes in salary reference data.
8. **Market Availability**
   The extent of suitable and qualified candidates available in the general labor market. It is influenced by the interplay of supply and demand dynamics.
9. **Performance**
   The candidate or incumbent's previous or current work accomplishments or outcomes and behavioral interactions that are typically assessed in written, verbal, or observational forms.
10. **Salary Reference Data**
    A composite of relevant salary information (e.g., average salary range, median salary, weighted average salary, etc.) extracted from available surveys that indicate market pricing for various jobs in the Commonwealth.

11. **Total Compensation**
    This includes all forms of cash compensation (e.g., base pay, overtime, temporary pay, on-call pay, etc.) and the dollar value of the employer-sponsored benefit package (e.g., health and dental insurance, long- and short-term disability programs, paid leave, retirement, life insurance, etc.).
12. **Training, Certifications, or Licensure**
    Job requirements or employee qualifications that are relevant or highly desirable for a particular job. Training refers to a specialized course of instruction outside the realm of recognized academic degree programs (e.g., in-service training, etc.). Certification refers to a specialized course of study resulting in a certificate upon successful completion (e.g., Certified Professional Accountant). A license is a credential that is required by law to practice one's occupation (e.g., Registered Nurse).
13. **Work Experience & Education**
    The candidate or incumbent's relevant employment history and academic qualifications. Work experience is the employment history of an individual, and typically includes the titles of jobs held and a corresponding description of the duties, responsibilities, and tasks performed. Education is academic credentials obtained and is usually listed as high school diploma, associate's degree, bachelor's degree or specific advanced degree.

TYPES OF PAY PRACTICES

The following compensation pay practices are available to LDSSs in developing its local compensation plan:

STARTING PAY

The local compensation plan includes a provision for setting the rate of starting pay. All employees are paid at least the pay band minimum of the State Compensation rate for the corresponding Occupational Title. Local departments have the flexibility to document the methodology for determining the starting pay in the LDSS' local compensation plan.

PROMOTION

A promotional increase may be awarded because of an internal candidate's competitive attainment of a different position assigned to a higher pay band or higher tier within the same pay band. The promotional salary increase must not exceed the maximum of the advertised salary range for the new position. The percentage of increase can vary from employee to employee and is based on the methodology in the LDSS' local compensation plan.

VOLUNTARY LATERAL TRANSFER

1. **Voluntary Lateral Transfer (Competitive)**
   When an internal applicant competes for and accepts a different position on the same pay band and tier as his/her current position, the salary determination is based on the methodology in the LDSS' local compensation plan and cannot be greater than the salary range maximum of the new position.

2. **Voluntary Lateral Transfer (Non-Competitive)**
   When an LDSS accepts a current employee's request to move to a different position on the same pay band and tier as his/her current position, the salary determination is based on methodology in the LDSS' local compensation plan. Prior to approving the transfer, LDSSs are required to consult with the VDSS Classification & Compensation Team (**hr.class-comp@dss.virginia.gov**).

DEMOTION

Demotion is movement of an employee to a lower pay band or to a lower tier in the same pay band. Salary determination will depend on the type of demotion.

1. **Demotion in Lieu of Layoff Due to a Reduction in Force**
   When an employee is moved to a position in a lower pay band or a lower tier in the same pay band within an LDSS due to a reduction in force, the salary remains the same, provided it does not exceed the new salary range maximum of the new position. If the employee's current salary is above the new salary range maximum, the current salary is frozen for six (6) months before being reduced to the maximum of the new salary range.
2. **Voluntary Demotion (Competitive)**
   When an employee applies for and accepts a position in a lower pay band or a lower tier in the same pay band within the same LDSS, the salary determination is based on the methodology in the LDSS' local compensation plan. The new salary cannot be greater than the salary range maximum of the new position. If the salary recommendation is higher than the employee's current salary, then consultation with the VDSS Classification & Compensation Team (hr.class-comp@dss.virginia.gov) is required prior to implementation.
3. **Voluntary Demotion (Non-Competitive)**
   When LDSS accepts a current employee's request for a position in a lower pay band or a lower tier in the same pay band, the salary determination is based on the methodology in the LDSS' local compensation plan. The new salary cannot be greater than the salary range maximum of the new position. If the salary recommendation is higher than the employee's current salary, then consultation with the VDSS Classification & Compensation Team_is required prior to implementation (hr.class-comp@dss.virginia.gov).
4. **Demotion Due to Unacceptable Performance**
   When an employee's performance is not acceptable, the employee may be moved to another position in a lower pay band or a lower tier in the same pay band. The current salary is reduced by five (5) percent for each tier moved – not to exceed fifteen (15) percent overall, unless the resulting salary is above the salary range maximum for the new position, in which case the resulting salary cannot be greater than the salary range maximum for the new position.
5. **Demotion Due to Unacceptable Performance (Conditional Status)**
   When an employee is on conditional status and the performance is not acceptable, the employee may be moved back to former position, if available, and his/her salary can be reduced back to the salary prior to the promotion or upward position; or the employee may be moved to another position in a lower pay band or lower tier in the same pay band and salary can be reduced five (5) percent for each tier moved – not to exceed fifteen (15) percent overall, unless the resulting salary is above the pay

band maximum for the new position, in which case the resulting salary cannot be greater than the salary range maximum for the new position

6. **Demotion for Disciplinary Reasons**
   When an employee is moved for disciplinary reasons to a position in a lower pay band or a lower tier in the same pay band, the current salary is reduced by five (5) percent for each tier moved – not to exceed fifteen (15) percent overall, unless the resulting salary is above the pay band maximum for the new position in which case the resulting salary cannot be greater than the salary range maximum for the new position.

Redefinition of a Position

Redefinition of a position allows an LDSS to reclassify a position to a different role as result of gradual, unplanned changes to a position's duties and responsibilities. A redefinition can be upward, lateral, or downward.

1. **Upward**
   When a position is reclassified to a role in higher pay band or a higher tier in the same pay band, the salary determination is based on the methodology for starting pay in the LDSS' local compensation plan.
2. **Lateral**
   When a position is reclassified to a role in the same tier in the same pay band, the salary determination is based on the methodology for starting pay in the LDSS' local compensation plan.
3. **Downward**
   When a position is reclassified to a role in a lower pay band or lower tier in the same pay band, the salary remains the same unless the current salary exceeds the maximum salary range of the new position. In this case, the current salary is frozen for six months, then reduced to the salary range maximum of the new position.

Merit Increase

A plan for awarding a merit increase must define the criteria for approving the salary increase as defined in the LDSS' local compensation plan to include the interval of time between each award period. LDSSs may choose from the following options to establish a merit increase date for employees:

1. One merit increase date applies to all employees.
2. The merit increase date set by LDSSs is based on the anniversary of:
   a. The initial appointment.
   b. Regular status.
   c. The most recent promotion.

LOCAL INCREASE

1. **Cost-of-Living Increase (COLA)**
   A COLA is separate and apart from any other salary increase and is consistently and uniformly applied to all LDSS employees. A COLA does not require a corresponding salary range revision.
2. **Additional Local Salary Increase**
   LDSSs may grant additional local salary increases to implement changes in federal, state, or local laws, or as deemed necessary by the State Board and set forth in the LDSS Administrative/HR Manual.

STATE SALARY ADJUSTMENT

LDSS employees' salaries may be adjusted as provided in relevant provisions of the Virginia Appropriations Act (Budget Bill) and guidance from the VDSS Classification & Compensation Team (**hr.class-comp@dss.virginia.gov**) and the VDSS Finance Local Budget Office.

IN-BAND ADJUSTMENT

An in-band adjustment is a non-competitive pay practice that enables LDSSs to facilitate salary growth, acknowledge an employee's career advancement, retain top-performing employees, or address specific salary concerns. There is no change in position number. Apart from end-of-trainee status, there is no change in occupational title. In-band adjustments consider pay factors, and the salary determination may vary based on the type of in-band adjustment and methodology in the local compensation plan.

1. **Probationary Increase**
   This type of increase may be awarded upon the successful completion of a probationary period. Same percentage applies to all probationary increases.
2. **End-of-Conditional Status Increase (Following a Promotion)**
   This type of increase may be awarded upon the successful completion of a conditional status period due to promotion. The same percentage applies to all end-of-conditional status increases due to promotion.
3. **End-of Trainee Status**
   In certain designated occupational groups, an LDSS may establish a career path for occupational titles within that group. LDSSs must develop an end-of-trainee plan that identifies criteria that must be met by the trainee. The first level in the career path is designated as a trainee level. After successful completion of the training period, the employee is eligible to move to a higher level in the occupational group (in most cases to level II). LDSSs may elect to give a salary increase upon successful completion of the training period. The same percentage applies to all end-of-trainee status increases.
   Note: For administrative purposes, the employee will retain his/her position number, but the position and employee will be redefined.
4. **Attainment or Use of Critical KSAs**
   LDSS may elect to grant salary increases to employees who have acquired critical knowledge, skills, or abilities now being exercised as part of their regular job duties. Examples include the completion of an advanced training curriculum beyond the requirements of the position including attainment of licensures, certifications, degrees, and bilingual skills that are relevant to and applicable to the job

where there is no change in position responsibilities, occupational title, pay band, or tier. LDSSs must document the skills eligible for such increases and the percentage amount associated with each in its local compensation plan. **Note: If the use of these skills was already factored in the determination of an employee's starting salary or most recent promotional increase, this practice should not be exercised for the employee.**

5. **Retention**

   An increase may be granted to prevent employees from seeking employment outside an LDSS including:

   a. Employees in occupations that have high value in the labor market when salaries have not been competitive with the marketplace. In such cases, the adjustment is normally granted to all employees in a particular occupation, functional area, or program area to avoid turnover.
   b. Individual employees who are assigned to a key function.
   c. The same percentage applies to all retention increases.

6. **Competitive Salary Offer (Counteroffer)**

   An LDSS may elect to make a counteroffer to an employee who has received a verified, higher salary offer for a position from another employer. The following conditions apply:

   a. Counteroffers are completely discretionary on the part of an LDSS for each employee.
   b. Each counteroffer should be based on a documented business need.
   c. Only one counteroffer may be made per offer.
   d. The counteroffer cannot exceed the offered salary.
   e. The counteroffer cannot exceed the current position's salary range maximum.

7. **Change in Duties**

   An increase may be granted to employees who assume new higher-level duties and responsibilities that are critical to the operations of an LDSS or new additional duties that increase the impact scope, complexity, results, or accountability of the position. The new duties do not warrant change in classification. Salary determination is based on the methodology cited in the local compensation plan.

8. **Internal Alignment**

   Internal salary alignment is a fairness criterion that takes into consideration the proximity of an employee's salary to the salaries of other similarly situated employees on such factors as experience, training, duties, and responsibilities, performance, KSAs, and competencies. Salary determination is based on the methodology cited in the local compensation plan.

RANGE REVISION

When warranted, an LDSS may adjust a position's minimum pay upward using a range revision process. LDSSs are responsible for seeking prior approval and guidance from the VDSS Classification & Compensation Team (**hr.class-comp@dss.virginia.gov**), as well as gathering all necessary documentation to support the request.

A range revision may be granted based on:

a. A market study.

b. A lack of qualified applicants.
c. Competition from other employers in the locality
d. The LDSS' turnover rate.
e. A cost-of-living adjustment.

Complete documentation that demonstrates the basis for the range revision and the proposed salary range(s) must be attached to the local compensation plan in the year the range revision will become effective. Salaries of employees in the affected positions/occupational titles may be adjusted as follows:

a. Employee salaries that fall below the new minimum must be increased to the new minimum.
b. Employee salaries that are at or above the new minimum may be adjusted by a percentage equal to the percentage adjustment of the new minimum.

TEMPORARY/ ACTING PAY

An LDSS may offer temporary pay to an employee under the following circumstances:

a. When the employee is assigned different duties at the same or higher level of responsibility on an interim basis.
b. When there is a need for additional assignments related to a special time-limited project.
c. When the employee is tasked with performing duties of a higher-level position.

This pay type is granted at the discretion of management and is not automatically provided when an employee assumes special assignments or additional duties. A start and end date should be specified; typically, temporary pay lasts for a minimum of ninety (90) days but should not exceed six (6) months. After six (6) months, the use of temporary pay should be reassessed and must be discontinued if the employee no longer performs the additional assignment(s). It's important to note that temporary pay is not an adjustment to an employee's base pay.

The percentage(s) must be documented in the LDSS' local compensation plan. LDSSs will determine the percentage amount for each condition below. If an employee is assigned different duties at the same or higher level of responsibility in addition to other already assigned temporary duties, LDSSs can adjust the temporary pay percentage based on the highest level of temporary duties assigned.

a. **Executive or Managerial**
   If new executive or managerial level supervisory responsibilities are assumed, temporary pay not to exceed 35% of base pay may be granted.
b. **Supervisory**
   If new supervisory responsibilities are assumed, temporary pay not to exceed 25% of base pay may be granted.
c. **Non-supervisory**
   If new non-supervisory responsibilities are assumed, temporary pay not to exceed 15% of base pay may be granted.

ON-CALL COMPENSATION

ELIGIBLE EMPLOYEES

Employees who perform adult or child protective services must have completed the required training and be knowledgeable in adult or child protective services policy requirements. On-call compensation may be provided to both exempt and non-exempt LDSS staff designated to be on-call for adult or child protective services.

LDSS ON-CALL COMPENSATION

Supplemental compensation is given for the inconvenience of time spent on call (waiting to be engaged) which is not considered time worked and is in addition to any compensation that may be earned for time worked. Reimbursement by VDSS is limited to the maximum rate of $25.00 per eight (8) hour on-call shift; however, LDSSs may provide additional compensation if the additional funds are available from non-VDSS sources.

COMPENSATION FOR ON-CALL DUTY

The local board determines the type of supplemental compensation to be given to an employee for being assigned on-call duty and may select one (1) of the following options:

1. Providing compensation in a lump sum amount not to exceed $25.00 per each eight (8) hour on-call shift assignment; or
2. Providing one hour of on-call leave per each eight (8) hour on-call shift assignment; or
3. Exercising either of the above options on a case-by-case basis.

LDSSs may also provide compensation based on a locally derived methodology. Reimbursement by VDSS will not exceed $25.00 per each eight (8) hour on-call shift.

COMPENSATION FOR PROVIDING DIRECT SERVICE DURING ON-CALL DUTY

The local board determines the type of compensation to be given to employees involved in providing direct service while on call. If an employee provides direct services while on call, the following options apply:

1. For employees who are exempt from the Fair Labor Standards Act (FLSA) or non-exempt employees who have actually worked fewer than forty (40) hours in that work week (including the direct service hours while on call), LDSSs have the option of:
    a. Compensating at the regular salary rate for each hour actually worked while on call; or
    b. Providing special duty leave for each hour actually worked while on call; or
    c. Exercising either of the above options on a case-by-case basis.
2. For employees who are non-exempt under the FLSA and who have actually worked in excess of forty (40) hours in a workweek when the on-call services delivery hours are added to the actual hours worked, LDSSs have the option of:

   a. Providing overtime payment at time-and-one-half the regular hourly rate for each hour of direct services in excess of forty (40) hours in the work week; or
   b. At the option of the local director and prior to overtime hours worked, a non-exempt employee may elect to receive compensatory leave at time-and-one-half for each hour of direct services in excess of forty (40) hours in the workweek.
3. Compensation for provision of twenty-four (24) hour adult or child protective services by the local director:
   a. The local board determines if the local director will be one of the employees designated to provide twenty-four (24) hour direct adult or child protective services.
   b. If designated, the local director is entitled to receive compensation as specified in the local compensation plan.

On-Call Leave

On-call leave may be awarded in certain circumstances. Please see Section III, "On-Call Leave" and Compensation-Related Leaves Reference Chart for more information.

SECTION II: FAIR LABOR STANDARDS ACT (FLSA)

All LDSS must comply with the Fair Labor Standards Act (FLSA), and this section is intended to provide general guidance. However, each LDSS may have different needs and requirements with regard to the FLSA and it is advisable that LDSSs seek guidance from the local board, the locality HR representative or attorney, the VDSS Classification & Compensation Team (**hr.class-comp@dss.virginia.gov**), and the following resources to ensure compliance with federal law.

U.S. Department of Labor (DOL)

- Wage and Hour Division
- Wage and Hour Division – Compliance Assistance
- Wage and Hour Division – FLSA Reference Guide
- DOL FLSA Resources for Employers
- DOL FLSA Advisor

HOURS OF WORK

"Work" under the FLSA is defined as all hours that an employee is required, or permitted, to engage in activities that involve mental or physical exertion on behalf of or for the benefit of an LDSS, regardless of whether the employee is exempt or non-exempt. This includes all time that the employee is required to be on the premises of an LDSS or at some prescribed place (e.g., home visits or court) or that an employee is required or permitted to work (e.g., working at home or staying after hours at the office).

CALCULATING HOURS WORKED

All work must be counted as hours worked. The basic principle is that if LDSSs are aware or have reason to believe that an employee is working, that time must be recorded as hours worked. This applies whether the employee volunteered for the work or was simply completing a task on his/her way home. Therefore, employees cannot freely "volunteer" to perform extra duties or tasks outside their regular work hours without reporting them as hours worked.

WORK ACTIVITIES

Activities that are generally considered "work" may include:

1. Waiting time, referring to periods during which an employee is required to remain at a specific location or be on standby for work-related tasks but is not actively engaged in productive work. Waiting time may occur when an employee is unable to use the time effectively for his/her own purposes and must remain available to perform job duties. For example, a receptionist whose main responsibility is to be present at the front desk to greet customers and answer the phone must continue to monitor the phone at the employer's front desk while waiting, even if there are no immediate tasks to attend to.
2. The LDSS local director may grant employees who work the equivalent of a full day or longer a maximum of one (1) 15-minute rest break before and one (1) 15-minute rest break after the required

meal period. Rest breaks are included on time sheets as hours worked. A "full day" is based on the workweek schedule of an LDSS:

   a. Eight (8) hours (40-hour workweek).
   b. Seven and one-half hours (7.5) hours (37.5-hour workweek).
   c. Seven (7) hours (35-hour workweek).

3. Meal periods of less than thirty (30 minutes) are included on timesheets as hours worked.
4. Pre-shift and post-shift activities required by an LDSS.
5. Required training.
6. LDSS required medical examinations.
7. Grievance activity.
8. Time actually worked while on call.
9. All activities performed for the benefit of the employer during regularly scheduled hours (e.g., travel to work locations or training). Note: Decisions are highly dependent on specific circumstances and should be evaluated individually in each case.

NON-WORK ACTIVITIES

Activities that are related to a job but are not considered "work" may include:

1. Time spent in civic and charitable activities (if not under the employer's request or direction).
2. Voting time.
3. On-call, waiting to be engaged, if the employee's activities while on-call are not unduly restricted (4) Home to work travel.
4. Time exceeding fifteen (15) minutes during a rest break is not included on timesheets as hours worked.
5. Meal periods thirty to sixty (30-60) minutes in length shall not be included on timesheets in the count of hours worked per day unless the supervisor has designated the meal break as part of the work schedule. When employees are required to work during their meal, that period shall be included on timesheets as hours worked.

VOLUNTEERED LABOR

A non-exempt employee cannot "volunteer" time to work beyond scheduled work hours, nor should an employee change the hours worked without permission of the supervisor.

SPECIAL SITUATIONS

The calculation of hours worked does **not** include the following:

Occasional & Sporadic Work

All employment for the same LDSS, whether in one (1) or more capacities, counts toward hours worked; however, there is an exception for public employers. When additional work is part-time, occasional, or sporadic, is different than the primary work, and is done on a voluntary basis, it may not count toward hours worked. For example, a family service specialist who is hired by the *county* recreation program to referee sporting events or drive the school bus for a field trip would not be performing work for an LDSS.

Lectures & Training Time

Time will not be counted as hours worked if:

1. The lecture or training occurs outside of normal work hours.
2. The topic is not directly related to the employee's job.
3. The employee's attendance is voluntary.
4. No work is performed for an LDSS.

Paid Time Off

Paid time off does not count as hours worked.

TRAVEL TIME

Time expended during the regular work schedule in travel and any time during which the employee is performing work, including the "work" of driving, must be counted as hours worked for both minimum wage and overtime computation purposes.

Travel During Work Hours

Travel and related activities on regular working days during normal working hours, as well as travel and related activities taking place during corresponding hours on non-working days, are considered work time and will be counted as hours worked.

Example: *If an employee's regular work hours are from 9 a.m. to 5 p.m., Monday through Friday, any travel time occurring between 9 a.m. and 5 p.m. on any day of the week, including Saturday and Sunday, must be considered as hours worked.*

Overnight Travel

1. When attending a meeting or business function overnight, only the hours that align with normal working hours, as well as any extra time spent in meetings or business-related activities, are counted as hours worked. Meals, receptions, social events are not hours worked unless attendance is required or work is performed during these events.
2. Travel time away from home which occurs outside regular working hours is not counted as hours worked if the employee is a passenger on an airplane, train, boat, bus, other common carrier, or as a passenger in an automobile.
    a. ***Example:*** *If a non-exempt employee who normally works 9:00 a.m. to 5:00 p.m., Monday through Friday, is required to travel by plane on Sunday night to be at an out-of-town meeting on Monday morning, the travel time is not counted as hours worked.*
3. If a non-exempt employee chooses to drive to an overnight assignment instead of using provided public transportation, LDSSs may choose to count as hours worked either the actual time spent by the employee driving or the time that would have been spent if the employee had used public transportation, whichever is less.

Recording Hours Worked

It is the responsibility of LDSSs to record all time actually worked and to maintain the records required under the FLSA. Although an LDSS may require non-exempt employees to track their hours worked, their failure to do so does not release the LDSS from the obligation to record this time. Hours worked can be recorded in increments as small as the time records are maintained, such as fifteen (15) minutes. Consistent rounding to the nearest increment is permitted by the FLSA, as long as it's done uniformly. Contact the VDSS Classification & Compensation Team (**hr.class-comp@dss.virginia.gov**) for questions about rounding practices.

When an employee works more or fewer hours than the weekly schedule set by an LDSS, the record must accurately show the actual number of hours worked and should be based on the weekly schedule chosen by an LDSS (e.g., 40 hours, 37.5 hours, 35 hours). Employees are only compensated for the hours they actually work.

Non-Exempt Status & Overtime

Non-exempt employees are subject to the minimum wage and overtime provisions of the FLSA and are entitled to receive overtime pay for hours worked over forty (40) hours in a workweek. Their compensation is typically based on an hourly wage, and they are required to track their hours worked.

Pay & Compensatory Leave

1. Employers must pay non-exempt employees at least the federal minimum wage for all hours worked.
2. For each hour worked over forty (40) hours in a workweek, a non-exempt employee receives overtime pay in the amount of one and one-half (1 ½) times the regular rate of pay.
3. At the discretion of the local director, non-exempt employee may choose to receive compensatory leave instead of overtime pay **before** working overtime hours.
4. Compensatory leave is earned at the same rate as overtime pay, which is 1 ½ hours of compensatory leave for each hour of overtime worked. Please see Section III, "Compensatory Leave" for additional information.

Exempt employees are not subject to the minimum wage and overtime provisions of the FLSA and are <u>not</u> entitled to either overtime pay or compensatory leave.

Procedures for Approval of Overtime Hours

Employees are not expected to work beyond their scheduled hours without the prior approval of a supervisor.

1. In the event an employee works beyond his/her scheduled hours, supervisor notification is required. LDSSs may, at their discretion, adjust the employee's schedule for that workweek to prevent overtime.
2. Approval from the supervisor is necessary for overtime work, with exceptions made only in rare circumstances.

3. Failure to promptly notify the supervisor or a repeated pattern of unauthorized overtime may result in disciplinary action.
4. Regardless of approval status or disciplinary action, employees will receive compensation for overtime hours worked.
5. Compensation, whether in the form of compensatory leave or overtime pay, will be provided at a rate of one and one-half (1 ½) times the regular hourly wage for each overtime hour.

Calculating the Regular Rate of Pay

The regular rate of pay is calculated by dividing an employee's total weekly pay by the total hours worked. For hourly employees, this rate is typically the same as their hourly wage. However, if additional compensation is provided, such as extra pay for being on call, it must be added to the total weekly compensation.

Exempt Status

Certain employees may qualify for exemptions from specific overtime and minimum wage regulations under the FLSA. Although the nature of the work an employee performs may fit the criteria for an exempt status, the local director and local board have the discretion to classify the employee as non-exempt.

Determining Exemption Under the FLSA

Employees may be classified as exempt under one (1) of three (3) "white-collar" exemptions*****:

1. Executive
2. Administrative
3. Professional

***Please see the "**Highly Compensated Employees**" for another area where employees may qualify for exemption.**

Therea are three (3) requirements for meeting one of the white-collar exemptions:

1. The employee must be paid a salary that is not less than the current FLSA overtime salary threshold.
2. Deductions from the salary for quantity or quality of work, or for less than full day disciplinary suspensions, are not allowed.
3. The duties performed must comply with the regulations for each exemption. Job titles alone do not determine exempt status; eligibility is contingent upon actual job duties.

Executive Exemption Criteria

Use the following criteria to determine if an employee may be qualified under the executive exemption:

1. The employee's primary duty involves managing an LDSS or a customarily recognized department or subdivision of an LDSS.
2. The employee is customarily and regularly directing the work of two or more other employees.
3. The employee has the authority to hire or fire other employees or his/her suggestions and recommendations as to the hiring, firing, advancement, promotion, or any other change of status of other employees are given particular weight.

Administrative Exemption Criteria

Use the following criteria to determine if an employee may be qualified under the administrative exemption:

1. The employee's primary duty involves office or non-manual work directly related to the management or general business operations of an LDSS or the LDSS' customers.
2. The employee's primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

Professional Exemption Criteria

Use the following criteria to determine if an employee may be qualified under the professional exemption:

1. The employee is a learned professional whose primary duty involves work requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction.
2. The employee is a creative professional whose primary duty involves work requiring invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor.

Exemption Review Process

Each local director, in consultation with the local board, is responsible for determining whether LDSS employees are exempt or non-exempt under the FLSA. It is also recommended the local director make exemption decisions in consultation with the locality HR representative or attorney, and the VDSS Classification & Compensation Team (**hr.class-comp@dss.virginia.gov**).

Employees will be classified either as exempt or non-exempt based on their job duties and responsibilities, not solely on their job titles or salary. LDSSs will maintain accurate records of exemption determinations for each employee that may be accessed at any time by VDSS HR.

Certification of Exempt Employees

Each LDSS must submit a certification to the VDSS HR Classification & Compensation Team that all positions have been reviewed to determine whether the positions within LDSSs are exempt from the requirements of the FLSA.

Changes to Exemption Status

Employee exemption status should be reviewed and updated as necessary based on changes in an employee's job duties or the needs of an LDSS. Any proposed changes to an employee's exemption status will be communicated in writing to the employee and VDSS HR so that appropriate changes may be made in the human resources management system (HRMS) in use by the local departments of social services.

Highly Compensated Employees

Highly compensated employees may be subject to different exemption criteria under the FLSA. LDSS employees earning total annual compensation above a certain threshold (as determined by the Department of Labor) may qualify for exemption status based on a simplified duties test. Contact the VDSS Classification & Compensation Team (**hr.class-comp@dss.virginia.gov**) for assistance with determining the exemptions status for employees who may meet the criteria for a highly compensated employee.

Special Provisions for Local Government

The FLSA includes special provisions that apply specifically to local government agencies. Three (3) provisions impacting LDSSs are:

1. Compensatory Leave.
2. Certain flexibilities in work schedules.
3. The ability to utilize volunteer services.

Contact the locality HR representative or attorney, or the VDSS HR Classification & Compensation Team with questions regarding these areas.

Compensatory Leave

Local government employers have the option to provide compensatory leave in lieu of overtime pay for *non-exempt* employees. Compensatory leave allows non-exempt employees to accrue paid time off at a rate of at least one and one-half (1 ½) hours for each overtime hour worked. There are specific rules and limitations governing the accrual, use, and payment of compensatory leave for public sector employees under the FLSA. See Section III, "Compensatory Leave" for additional information.

Flexible Work Schedules

The FLSA allows local governments the option to implement alternative work schedules, such as compressed workweeks or flexible hours arrangements, to accommodate operational needs while ensuring compliance with FLSA regulations.

Volunteer Services

Local government agencies may utilize volunteers for various activities and programs. Volunteers are generally not considered employees under the FLSA and are not entitled to minimum wage or overtime

pay for their services. However, LDSSs must ensure that volunteers are engaged in bona fide volunteer activities and are not performing tasks that would otherwise be performed by paid employees.

RECORDKEEPING REQUIREMENTS OF THE FLSA

The FLSA requires that certain records be kept on **both** non-exempt and exempt employees. The records must accurately reflect:

1. The weekly schedule chosen by an LDSS (e.g., 40 hours, 37.5 hours, 35 hours).
2. Only the number of hours employees actually worked.

RECORDKEEPING REQUIREMENTS FOR NON-EXEMPT EMPLOYEES

LDSSs must keep the following records for each non-exempt employee:

1. **Personal Information:** Record essential personal details such as the name, home address (including zip code), occupation, and sex. The birth date is required if the employee is under 19 years of age.
2. **Workweek Information:** Indicate the hour and day when the workweek begins and ends.
3. **Hours Worked:** Indicate the total hours worked for each workday and each workweek.
4. **Straight-Time Earnings:** Include the total daily or weekly straight-time amount.
5. **Regular Hourly Pay Rate:** Record the regular hourly pay rate for any week in which overtime is worked.
6. **Overtime Pay:** Record the total overtime pay or compensatory time earned for the workweek.
7. **Deductions/Additions:** Document any deductions from or additions to wages, such as taxes, benefits, or garnishments.
8. **Total Wages Paid:** Maintain records of the total wages paid for each pay period.
9. **Payment Information:** Document the date of payment and the pay period covered for each payment.
10. **Exclusions from Regular Rate:** Detail any amounts and the nature of each payment that is excluded from the regular rate of pay, such as reimbursements or certain bonuses.

RECORDKEEPING REQUIREMENTS FOR EXEMPT EMPLOYEES

LDSSs must keep the following records for each exempt employee:

1. **Personal Information:** Document personal information including the name, home address (including zip code), occupation, and sex. Record the birth date if the employee is under 19 years of age.
2. **Workweek Information:** Document the hour and day when the workweek begins.
3. **Workweek End:** Record the hour and day when the workweek ends.
4. **Total Hours Worked:** LDSSs may choose to keep records of hours worked for managerial or administrative purposes. Please note that exempt employees are not typically paid based on hours worked, and these records are not a requirement under the FLSA.
5. **Total Wages Paid:** Maintain records of the total wages paid each pay period. This includes salary payments, bonuses, commissions, and any other forms of compensation.
6. **Payment Information:** Document the date of payment and the pay period covered by each payment.

7. **Basis of Wages:** Document the basis on which wages are paid to exempt employees, including salary amount and any additional compensation such as fringe benefits (e.g., retirement contributions, health plan coverage, etc.).

VIOLATIONS

Employees who believe that an LDSS has violated the FLSA in any action or practice, have the right to file a complaint with the local director. The complaint will undergo investigation, and if founded, meaning that an error or illegal practice has occurred, corrective action will be taken promptly. Any compensation owed to the employee will be paid without delay. Employees are protected from retaliatory actions for filing such complaints. Additionally, non-probationary employees have the option to initiate a grievance to contest FLSA violations.

INDEPENDENT CONTRACTORS

It is imperative for LDSSs to correctly classify workers as independent contractors or employees to ensure compliance with labor laws and regulations. Misclassification may result in legal and financial consequences. Contact the VDSS Classification & Compensation Team (**hr.class-comp@dss.virginia.gov**) or the locality HR representative or attorney if there are any questions regarding the classification of independent contractors versus employees.

Independent contractors are:

1. Individuals or entities hired to perform specific tasks or provide services under a contract.
2. Considered self-employed and are responsible for their own taxes, insurance, and other business expenses.
3. Typically work on a project-by-project basis and have more, and in some cases, complete control over how and when they perform their work.

Employees are:

1. Individuals who work for the agency and are subject to its direction and control.
2. Receive regular wages or salary, and their LDSS withholds taxes, provides benefits, and covers them under its insurance policies.
3. Typically hired for ongoing roles within the agency and are expected to adhere to agency policies and procedures.

SECTION III: LEAVES ASSOCIATED WITH COMPENSATION

The section outlines three (3) types of leave that may be granted in lieu of compensation: Compensatory leave, special duty leave, and on-call leave. Refer to the Compensation-Related Leaves Reference Chart for a concise overview of all three.

COMPENSATORY LEAVE

PURPOSE OF COMPENSATORY LEAVE

Compensatory leave is a form of paid time off given to ***non-exempt*** employees in place of overtime pay when they work more than forty (40) hours in a workweek. This benefit provides employees with the option to take paid time off instead of receiving additional monetary compensation for their overtime hours.

ELIGIBILITY

Non-exempt employees, who are subject to the FLSA's overtime and minimum wage requirements, may receive compensatory leave under a special provision for public agencies. Exempt employees, however, are ineligible for compensatory leave as they are exempt from these FLSA requirements.

AGREEMENT REQUIRED

LDSSs choosing to use compensatory leave rather than monetary compensation for overtime hours worked must obtain the written agreement from the non-exempt employee prior to the performance of the overtime work.
The agreement should contain the following statements:

1. That compensatory leave will be received in lieu of overtime pay.
2. That the compensatory leave earned may be used, preserved, or cashed out by LDSSs.
3. That no more than 240 hours[1] of compensatory leave may be accrued at any period.
4. That once the employee has accrued 240 hours of compensatory leave, the employee must receive pay for additional overtime hours worked.

All overtime should be approved by supervisor. See 'Procedure for Approval of Overtime Hours' for more information.

[1] The LDSS has the discretion to establish a threshold lower than 240 hours.

Accrual of Compensatory Leave

Rate

The rate of compensatory leave is one and one-half (1 ½) hours of leave for every hour actually worked over forty (40) hours in any workweek.

Maximum Amount

The maximum amount of compensatory leave is 240 hours. When the maximum amount is reached, an employee must be paid cash for all overtime hours worked. LDSSs have the discretion to establish a threshold lower than 240 hours.

Duration

Compensatory leave does not expire.

Cash Out

LDSSs reserves the right to cash out compensatory leave, either partially or in full, solely at its discretion, and at any given time. Payment for compensatory leave for current employees must be at their current regular rate of pay. For terminating employees, payment for compensatory leave must be at their current regular rate of pay or at the average regular rate of pay for the past three (3) years, whichever is greater.

Schedule Adjustments

LDSSs may adjust an employee's schedule during the workweek to avoid overtime.

1. Schedule adjustments should be made consistently and without discrimination.
2. If an employee's schedule is adjusted to prevent them from reaching overtime hours, they must still receive overtime pay for any hours actually worked beyond 40 in that workweek.
3. When a schedule change is needed, employees should receive as much advance notice as possible. While employers have the authority to adjust schedules to meet business needs, they should consider employees' preferences and accommodate reasonable requests, if feasible.

Use of Compensatory Leave

Scheduling of Compensatory Leave

LDSSs should attempt to approve compensatory leave requests for the timeframe requested by the employee. However, LDSSs have the discretion to approve leave for an alternative time if granting the requested leave would create a hardship.

Reasons for Use

Accrued compensatory leave may be used to provide paid time off from work for any purpose. **At any time, LDSSs reserve the right to require the use of compensatory leave over other forms of leave to reduce the number of accrued compensatory leave hours.**

Treatment of Compensatory Leave Upon Change of Status

Payment When Leaving the LDSS

An employee shall be paid for any unused accrued compensatory leave in a lump sum when employment is terminated.

Payment Upon Death

Leave payments owed to a deceased employee are subject to certain provisions within Code of Virginia §§ 64.2-601 and 64.2-602, which govern the process by which those payments are made. The guidelines and legal requirements governing wages earned by an employee prior to death can be complicated. Individual circumstances can vary and may require additional guidance from the locality payroll office and attorney.

Rate of Payment

Compensatory leave balances must be paid at the employee's current regular rate of pay or at the average regular rate of pay for the past three (3) years, whichever is greater.

Retention of Accrued Compensatory Leave

When the employee is transferred, promoted, or demoted to another position within *the same LDSS*, LDSSs may cash out any accrued compensatory leave.

Special Duty Leave

Purpose of Special Duty Leave

Special duty leave is a form of paid time off that may be provided to all employees of an LDSS in place of compensation for additional hours worked during specific time (e.g., holidays). when they work more than forty (40) hours in a workweek.

Distinguishing Special Duty Leave from Compensatory Leave

Special duty leave is a type of paid leave established by the VDSS and the Virginia State Board of Social Services, distinct from compensatory leave governed by federal law, particularly the Fair Labor Standards Act (FLSA). Compensatory leave is specifically designated as an alternative form of compensation for non-exempt employees, who are entitled to overtime pay under the FLSA, for additional work hours. Special duty leave, having no connection to the FLSA, should not be conflated with compensatory leave.

Non-exempt employees may receive special duty leave in specific scenarios. However, to comply with the FLSA, LDSSs must ensure that special duty leave is never substituted for compensatory leave when a non-exempt employee exceeds forty (40) hours of work in a workweek. Such hours constitute overtime, and if the employee agrees to paid leave instead of overtime pay, compensatory leave must be provided as it aligns with the overtime rate (1 ½ hours for every hour of overtime), mirroring overtime compensation (1 ½ times the employee's regular rate of pay). Special duty leave is earned on an hour-for-hour basis.

Exempt employees may also receive special duty leave under certain circumstances; however, as they are exempt from FLSA's overtime requirements, they are ineligible to receive compensatory leave. Contact the VDSS Classification & Compensation Team (**hr.class-comp@dss.virginia.gov**) for questions concerning about special duty leave or compensatory leave.

Criteria for Granting Special Duty Leave

Special duty leave is intended for use in limited circumstances when employees are required by the local director to work outside of normal business hours (e.g., evenings, weekends, holidays, and office closings).

Special duty should not be routinely granted or approved, and it may *not* be awarded:

1. Without the direction and written approval of the local director *in advance* of the extra hours of work.
2. For hours worked to complete routine projects.

Special duty leave is not a required form of compensation. LDSSs have the discretion to offer other forms of compensation in lieu of special duty leave. It is recommended that LDSSs seek consultation from the locality HR representative or attorney or the VDSS HR Classification & Compliance Team prior to awarding other types of compensation.

Earning Special Duty Leave

Non-Exempt Employees

Special duty leave is to be given to non-exempt employees on an hour-for-hour basis for hours actually worked. Special duty leave must not be provided to non-exempt employees in lieu of overtime compensation. See "Distinguishing Between Special Duty Leave from Compensatory Leave" and "Helpful Hints – Compensatory Leave or Special Duty Leave?" for additional information; or contact the VDSS HR Classification & Compensation Team for assistance with determining when non-exempt employees may receive special duty leave.

Exempt Employees

Exempt employees receive a fixed salary for their assigned responsibilities, regardless of the number of hours worked. Special duty leave is not intended for hours spent on routine projects by exempt employees. Instead, it is reserved for instances when the local director requires work outside standard business hours, such as evenings, weekends, holidays, or office closures.

Rate & Pay Out

Special duty leave is earned on an hour-for-hour basis. At any time, LDSSs reserve the right to cash out special duty leave balances hour-for-hour at employees' current regular rate of pay.

USE

Duration

Accrued special duty leave expires twelve (12) months from the date earned. In extenuating circumstances, the local director may seek approval from local board to allow an employee the ability to carry over some or all of the previous year's special duty leave balances. The local board may set a time period by which the leave must be used.

Reasons for Use

Accrued special duty leave may be used for the same purposes as annual leave.

Authorization for Use

Special duty leave cannot be earned unless it has been authorized in writing by the local director, and it must be authorized *before* the employee works the additional hours. However, if emergency conditions exist which make it impossible to authorize special duty leave in advance, written authorization should be obtained as soon as possible thereafter.

TREATMENT OF SPECIAL DUTY LEAVE UPON A CHANGE IN STATUS

Payment When Leaving the LDSS

When employment terminates for any reason, the employee will receive a lump-sum payment for any unused special duty leave balances. This payment will be converted into an equivalent number of days for the purpose of calculating unemployment compensation benefits.

Payment Upon Death

Leave payments owed to a deceased employee are subject to certain provisions within Code of Virginia §§ 64.2-601 and 64.2-602, which govern the process by which those payments are made. The guidelines and legal requirements governing wages earned by an employee prior to death can be complicated. Individual circumstances can vary and may require additional guidance from the locality payroll office and attorney.

Rate of Payment

Each hour of special duty leave shall be paid at the employee's final regular rate of pay.



Helpful Hints: Compensatory Leave or Special Duty Leave?

Let's take a closer look at how compensatory leave and special duty leave, two types of leave granted to LDSS employees in lieu of compensation, are applied in the following example.

Ted, a non-exempt employee, works at an LDSS with a standard forty-hour workweek, comprising eight-hour workdays. The week before Memorial Day, Ted's director informed him of a brief emergency on the Memorial Day holiday. Ted agreed to work from 2:00 p.m. to 3:00 p.m. to address it. During Memorial Day week, Ted worked extra hours every evening after the holiday and was also on-call on Saturday, working an extra four hours. **Here's Ted's work schedule for that week:**

Day	Monday *Holiday*	Tuesday	Wednes-day	Thursday	Friday	Saturday	Sunday	Total Hours
Date	5/27	5/28	5/29	5/30	5/31	6/1	6/2	
No. of Hours	1	9	10	10	9	8	0	**47**

Ted has a vacation coming up and has requested to be compensated with leave instead of pay. Let's break down the compensation calculation for Ted's workweek:

- **Compensation:** Ted would receive his regular salary for the entire week at his regular rate of pay. He gets a full day of pay at his regular rate for the holiday, and he agreed to one (1) hour of special duty leave to handle the emergency task for the director.
- **Special Duty Leave:** Ted earns one (1) hour of special duty leave for the hour of emergency work.
- **Overtime Compensation:** Ted won't receive overtime compensation because he opted for compensatory leave instead. However, if he had requested overtime pay, he'd receive six (6) hours of compensation at a rate of 1.5 times his regular rate of pay.
- **Compensatory Leave:** Ted earns compensatory leave at a rate of 1.5 hours for every hour worked beyond his regular schedule. Therefore, Ted earns nine (9) hours of compensatory leave (6 x 1.5 = 9).

Key differences between compensatory leave and special duty leave include:

- **Eligibility:** Only non-exempt LDSS employees are eligible to earn compensatory leave, while all LDSS employees are eligible to earn special duty leave.
- **Accrual Rate**: Compensatory leave accrues at 1.5 hours for every hour worked beyond the regular schedule, while special duty leave is earned on an hour-for-hour basis.
- **Legal Framework:** Compensatory leave aligns directly with the Fair Labor Standards Act (FLSA), whereas special duty leave does not.

Need help? Contact the VDSS Local HR Support Team!

On-Call Leave

Purpose of On-Call Leave

The purpose of on-call leave is to provide LDSSs with the option to compensate employees with paid leave for the inconvenience of time spent on-call. It is leave earned in addition to any compensation that may be earned for time worked.

Earning On-Call Leave

One (1) hour of on-call leave is granted for each eight (8) hour on-call shift assignment.

Use of On-Call Leave

Accrued on-call leave may be used for the same purposes as annual leave. Accrued on-call leave expires within twelve (12) months from the date it is earned. In extenuating circumstances arising from LDSS needs and as approved by the local board, an LDSS may allow an employee to carry over some or all on-call leave balances and may provide a time period during which it must be used.

Cashing Out On-Call Leave

At any time, LDSSs may cash out on-call leave balances hour-for-hour at the employee's current regular hourly rate of pay.

On-Call Leave Authorization

Employees cannot accrue on-call leave unless it has been officially authorized in writing by the local director. Authorization for on-call leave must be obtained before the employee begins the on-call shift assignment for which the leave will be provided. However, if unforeseen emergency circumstances prevent obtaining prior authorization, written approval should be sought as soon as possible afterward.

Treatment of On-Call Leave Upon a Change in Status

Payment When Leaving the LDSS

An employee shall be paid in a lump sum for the accrued and unused on-call leave balances when employment terminates for any reason. This payment shall be allocated to an equivalent number of days for purposes of unemployment compensation benefits.

Payment Upon Employee's Death

Leave payments owed to a deceased employee are subject to certain provisions within Code of Virginia §§ 64.2-601 and 64.2-602 which govern the process by which those payments are made. The guidelines and legal requirements governing deceased pay can be complicated. Individual circumstances can vary and may require additional guidance from the locality payroll office and attorney.

Rate of Payment

Each hour of on-call leave shall be paid at the employee's ending regular rate of pay.

COMPENSATION-RELATED LEAVES CHART

Policy Area	On-Call Leave	Special Duty Leave	Compensatory Leave
Eligibility:	Exempt and non-exempt employees designated to provide adult/child protective services on duty.	All employees.	Non-Exempt employees.
Definition:	Paid time off for time spent on-call or 'waiting to be engaged.' This leave type is earned in addition to any compensation that may be earned for hours worked while on call.	Paid time off ***for special or extenuating circumstances*** where an employee has worked additional hours in a workweek. Appropriate examples are on an official office closing day, a holiday or scheduled day off, or when a holiday falls on an employee's scheduled day off.	Paid time off for a ***non-exempt*** employee who actually works more than forty (40) hours in a workweek.
Purpose:	Compensation in the form of paid leave for the inconvenience of time spent on call, 'waiting to be engaged.'	Compensation in the form of paid leave for extra hours worked during a workweek due to special or extenuating circumstances.	Compensation for non-exempt employee in the form of paid leave in lieu of overtime pay for working more than forty (40) hours in a workweek.
Legal Basis for Leave:	No.	No.	Yes, compensatory leave is associated with the Fair Labor Standards Act (FLSA).
Required Work Hours for Leave Eligibility:	N/A	N/A	More than forty (40) hours in a workweek.
Rate of Accrual:	One (1) hour earned per eight (8) hour shift.	Earned on an hour-for-hour basis.	One and one-half (1 ½) hours for each hour or partial hour worked over forty (40) hours in a workweek.
Duration:	Expires in twelve (12) months. With local board approval, carryover of on-call leave may be permitted for a specified timeframe.	Expires in twelve (12) months. With local board approval, carryover of special duty leave may be permitted for a specified timeframe.	Does not expire.
Maximum Amount:	No maximum amount	No maximum amount	240-hour maximum, subject to LDSS restriction.

COMPENSATION-RELATED LEAVES CHART

Policy Area	On-Call Leave	Special Duty Leave	Compensatory Leave
Authorization:	Employees must obtain LDSS written approval prior to earning leave.	Employees must obtain LDSS written approval prior to earning leave.	Employees must obtain LDSS approval before scheduling or working overtime hours. However, if overtime hours are worked, employees must be compensated.
Payment on Termination:	Full lump sum payment for unexpired leave.	Full lump sum payment for unexpired leave.	Full lump sum payment.
Payment Upon LDSS Transfer:	Full lump sum payment for unexpired leave.	Full lump sum payment for unexpired leave.	Full lump sum payment.
Payment Upon Position Transfer:	No payment: Employee will retain accrued leave.	No payment: Employee will retain accrued leave.	No payment: Employee will retain accrued leave.
Payment Upon Death	Leave payments subject to certain provisions within Code of Virginia §§ 64.2-601 and 64.2-602.	Leave payments subject to certain provisions within Code of Virginia §§ 64.2-601 and 64.2-602.	Leave payments subject to certain provisions within Code of Virginia §§ 64.2-601 and 64.2-602.
Rate of Payment:	Paid at employee's ending regular rate of pay.	Paid at employee's ending regular rate of pay.	Terminating employees' compensatory leave balances paid at ending regular rate or average rate over last three years, whichever is higher. Current employees' balances paid at current regular rate

PART III: HOLIDAYS

POLICY STATEMENT

The Virginia State Board of Social Services establishes policies for the designation of observed, paid holidays for LDSSs, as well as policies committing to the respect and accommodation of the religious beliefs and practices of all LDSS employees.

SCOPE

This policy applies to all employees of Non-Deviating (ND) LDSS or Partially Deviating (PD) LDSS.

Additional Information:
Per § 22VAC40-675-50 of the Administrative Code of Virginia, in local jurisdictions where there is a holiday policy that applies uniformly to all local government employees, the local department of social services may deviate to locality policy, provided the deviation is approved by the VDSS HR Policy Team (**hr.employeerelations@dss.virginia.gov**) as being in substantial conformity with this policy.

SECTION I: HOLIDAY SCHEDULE

GENERAL INFORMATION

This policy applies to all LDSS employees and notifies employees of which days have been designated as observed, paid holidays. LDSSs are closed on all designated holidays.

DAYS OBSERVED AS HOLIDAYS

The following thirteen (13) paid holidays are observed by closing LDSS offices:

1. **New Year's Day (January 1)**
2. **Martin Luther King Day (3rd Monday in January)**
3. **President's Day (3rd Monday in February)**
4. **Memorial Day (Last Monday in May)**
5. **Juneteenth (June 19)**
6. **Independence Day (July 4)**
7. **Labor Day (1st Monday in September)**
8. **Columbus Day (2nd Monday in October)**
9. **Election Day (Tuesday Following the 1st Monday in November)**
10. **Veteran's Day (November 11)**
11. **Thanksgiving Day (4th Thursday in November)**
12. **Friday Following Thanksgiving Day**
13. **Christmas Day (December 25)**

OTHER HOLIDAYS

LDSSs will close and observe additional official, paid holidays declared by the Governor that do not appear on the list of the thirteen (13) observed holidays.

WHEN HOLIDAYS FALL ON A WEEKEND DAY

An official holiday that falls on a Saturday will be observed on the preceding Friday. An official holiday that falls on a Sunday will be observed on the following Monday.

DEVIATION TO THE LOCALITY HOLIDAY POLICY

Per § 22VAC40-675-50 of the Administrative Code of Virginia, in local jurisdictions where there is a holiday policy that applies uniformly to all local government employees, the local department of social services may deviate to locality policy, provided the deviation is approved by the VDSS HR Policy Team (**hr.employeerelations@dss.virginia.gov**) as being in substantial conformity with this policy.

The agency is required to select either the policy outlined in this manual or to request deviation to the locality's policy. **It is not permissible for the agency to adhere to both policies simultaneously.** For example, an agency that has **not** received approval to deviate to the locality's policy cannot close on days declared as holidays by the locality that are not among the thirteen (13) observed holidays listed in this policy.

COMPENSATION ISSUES

REQUIRED WORK ON A HOLIDAY

Offices are closed on official holidays, and work is not generally expected. However, some employees may be scheduled to work due to the nature of their job. In such cases, they may receive special duty leave or cash compensation, in addition to their regular pay.

Local directors should review Distinguishing Special Duty Leave from Compensatory Leave and Criteria for Granting Special Duty Leave for additional information when considering offering special duty leave to employees. Contact the VDSS Classification & Compensation Team (**hr.class-comp@dss.virginia.gov**) if there are additional questions regarding the use of special duty leave.

RELIGIOUS OBSERVANCES

REQUESTS

1. Employees should request leave in advance of the religious holiday or observance.
2. LDSSs will make every effort to accommodate the employee's needs while considering the operational requirements of the agency. The appropriate amount of time off for religious holiday or observance will be determined based on the specific needs of the employee and the nature of the religious event or practice.
3. Employees who have received approval for their leave request and have insufficient leave balances are permitted to use leave without pay.

INTERACTIVE PROCESS

When an employee requests a religious accommodation, LDSSs will engage in an interactive process with the employee to determine the most reasonable accommodation that meets both the employee's religious needs and the operational requirements of the business and does not pose an 'undue hardship'. This may involve discussions between the employee and his/her supervisor; appropriate representation from the locality (i.e., locality HR or attorney; or the VDSS HR Employee Relations Team (**hr.employeerelations@dss.virginia.gov**)) to explore potential accommodations and reach a mutually agreeable solution.

DETERMINING UNDUE HARDSHIP

An 'undue hardship' in the context of religious accommodation is defined as an accommodation request that would pose "substantial increased costs[1]" rendering the LDSS' ability to accommodate an employee's religious beliefs or practices impractical or unreasonable. LDSSs are strongly encouraged to contact either the locality HR attorney or the VDSS HR Employee Relations Team prior to making final determinations on what may or may not qualify as an undue hardship.

[1] *Groff v. DeJoy*, 600 U.S. 5 (2023)

COMPLIANCE WITH LAWS & REGULATIONS

LDSSs will ensure that any accommodation provided for religious observance is consistent with applicable laws and regulations regarding religious discrimination and accommodation. Any form of discrimination or retaliation against employees based on their religious beliefs or requests for accommodation is strictly prohibited.

GLOSSARY:

PART I: CLASSIFICATION

1. Employee Categories: There are four (4) employee categories – emergency, probationary, restricted, and temporary. They are defined as follows:
    a. Emergency: Employees hired with the understanding that the employment is time-limited to fill an immediate need of an LDSS. Emergency employees receive and accrue no benefits except those required by law.
    b. Probationary: Employees accepting a new, re-employment, or transfer-in appointment to a regular or restricted position who serve a twelve (12) month probationary period.
    c. Restricted: Employees who enter 'restricted' positions, which are positions established for a specific time period with an end date.
    d. Temporary: Employees hired with the understanding that the employment is time-limited and does not serve a probationary period. Temporary employees receive and accrue no benefits except those required by law.
2. Employee Performance Plan & Evaluation (EPPE): An LDSS-specific instrument used to document and communicate the employee's annual performance plan, development plan, and evaluation. Parts I, II, III, and IV are written by the supervisor with input from the employee and reviewed with the employee at the beginning of the evaluation cycle. Parts V, VI, VII, and VIII are written by the supervisor and reviewed with the employee at the end of the evaluation cycle. The form and its instructions are located on the VDSS HR Local Policy Page under "Forms."
3. Local Position Request Form: An LDSS-specific form used when there is a need to establish, abolish, reallocate, or redefine a position.
4. Occupational Title Descriptions: Detailed explanations of the job titles assigned to the local departments of social services. They include information about the roles, responsibilities, qualifications, and requirements associated with a particular job title. They are a key component of an LDSS' classification system and are useful during recruitment, employee evaluations, training, and workforce planning.
5. Position Actions:
    a. Establish: The creation of a new position.
    b. Abolish: The elimination of an existing position.
    c. Reallocate: The reclassification of a vacant position from one occupational title to another occupational title.
    d. Redefine: The reclassification of an encumbered position in recognition of a gradual, unplanned change in duties. A redefinition may be upward, downward, or lateral.
6. Position Types: There are five (5) possible position types – regular, restricted, temporary, emergency, and seasonal.
    a. Regular: A position with an indefinite duration with no expiration date.

b. Restricted: A position established for a specific time period with an end date. A restricted position may be extended upon request.
c. Temporary: A position established to meet a special need of an LDSS. The duration of a temporary position typically does not exceed twelve (12) months, and it is not renewed or extended.
d. Emergency: A position established for up to one (1) year to meet special or immediate needs of an LDSS.
e. Seasonal: A position established for time periods when LDSSs need additional assistance (e.g., when the Fuel Assistance Program is active).

PART II: COMPENSATION

1. Compensatory Leave: Compensatory leave is time off granted to a non-exempt employee in lieu of overtime pay. The Fair Labor Standards Act (FLSA) requires covered employers to pay non-exempt employees at least one and one-half (1 ½) times their regular rate of pay for all hours worked beyond forty (40) in a workweek.
2. Demotion for Disciplinary Reasons: An employee is moved to another position in a lower pay band or a lower tier in the same pay band due to exhibiting behavior or performance that necessitate disciplinary action.
3. Demotion in lieu of Layoff Due to a Reduction in Force: The movement of an employee to a lower pay band or to a lower tier in the same pay band within an LDSS instead of termination of employment due to the reason(s) for a reduction in force.
4. Demotion for Unacceptable Performance (Conditional Status Period): An employee on a conditional status period is moved to another position in a lower pay band or a lower tier in the same pay band due to performance that does not meet the expected or required standards during the conditional status period.
5. Demotion for Unacceptable Performance (No Conditional Status Period): An employee is moved to another position in a lower pay band or a lower tier in the same pay band due to performance that does not meet the expected or required standards.
6. Demotion (Voluntary Competitive): An employee applies for and accepts a position in a lower pay band or a lower tier in the same pay band within the same LDSS.
7. Exempt: Employees who are not subject to the overtime and minimum wage provisions of the Fair Labor Standards Act (FLSA). Determining exemptions is the responsibility of an LDSS' local agency board and director, who must adhere to specific criteria outlined in FLSA regulations. These criteria include considering salary thresholds and job duties tests, which are applied to various categories of employees based on their job responsibilities and salary level, such as executive, administrative, or professional roles. Exempt employees typically receive compensation on a salary basis.
8. Fair Labor Standards Act (FLSA): A federal law that sets standards for minimum wage, overtime pay, recordkeeping, and youth employment. It applies to employees in both the private and public sectors, establishing guidelines for fair compensation and working conditions. Compliance with FLSA regulations is mandatory for state and local agencies to ensure fair treatment of employees.

9. Highly Compensated Employee: An employee who earns above a certain threshold, which is periodically adjusted by the U.S. Department of Labor (DOL). These employees may be exempt from certain overtime pay requirements if they meet the criteria outlined by the FLSA, including performing office or non-manual work and exercising discretion and independent judgment in their role.
10. Hours Worked: Relates to the Fair Labor Standards Act (FLSA) and is the time during which an employee is required to be on duty, at the employer's premises or at another designated location, and engaged in activities related to his/her job. This may include time spent performing primary job duties but also time spent waiting, traveling, undergoing training, attending meetings, and performing other tasks required by the employer. Employees must be compensated at the appropriate rate of pay for all hours worked, including any overtime hours worked.
11. In-Band Adjustment: A non-competitive pay practice that enables LDSSs to facilitate salary growth, acknowledge an employee's career advancement, retain top-performing employees, or address specific salary concerns. There are several types of in-band adjustments that may be considered: the successful completion of a probationary, conditional status, or training period; the attainment of critical skills; retention; competitive salary offers; a change in duties; internal alignment; and range revision.
12. Local Compensation Plan: A strategic framework for compensation within each LDSS to ensure equal pay for equal work and competitive salaries for attracting and retaining a well-qualified workforce. Each LDSS is required to submit an annual compensation plan, along with any mid-year changes to the plan, for review by the VDSS HR Classification & Compensation Team for review.
13. Local Increase: Increases in LDSS employee compensation which occur at the local level. There are two (2) types: A cost-of-living increase (COLA); and additional local salary increases to implement changes in federal, state, or local laws, or as deemed necessary by the State Board and set forth in the LDSS Administrative/HR Manual.
14. Merit Increase: A salary adjustment given to an employee based on his/her individual performance, achievements, skills, and contributions to the organization.
15. Non-Exempt: Employees who are subject to the FLSA's minimum wage and overtime pay provisions. Non-exempt employees are entitled to receive at least the federal minimum wage for all hours worked and overtime pay at a rate of one and one-half (1 ½) times their regular rate of pay for all hours worked over forty (40) in a workweek.
16. On-Call: A work arrangement where LDSS employees are available to work or be contacted outside of their regular working hours in case of emergencies, urgent situations, or to provide necessary assistance or support.
17. On-Call Leave: An option available to LDSSs to compensate employees with paid leave for the inconvenience of time spent on-call. On-Call leave is earned in addition to any compensation that may be earned for time worked. One (1) hour of on-call leave is granted for each eight (8) hour on-call shift assignment.
18. Overtime: Hours worked by non-exempt employees beyond forty (40) hours in a workweek. For these additional hours, non-exempt employees are entitled to receive overtime pay at a rate of at least one and one-half (1 ½) times their regular rate of pay.
19. Pay Factors: Components LDSSs may consider when determining an employee's compensation. There are thirteen (13): LDSS business need; budget implications; current salary; duties and responsibilities;

internal salary alignment; knowledge, skills, and abilities (KSAs); long-term impact; market availability; performance; salary reference data; total compensation; training, certification, or licensure; and work experience and education.

20. Promotion: The elevation or advancement of an employee's position within an LDSS, typically resulting in increased responsibilities, authority, and (often) compensation.
21. Redefinition: Reclassification of a position to a different role as result of gradual, unplanned changes to a position's duties and responsibilities. There are three (3) types of redefinitions: upward, lateral, and downward.
22. Salary Range: The lowest and highest pay rates, as well as the range of pay rates in between, established for a specific occupational title.
23. Special Duty Leave: A form of paid time off that may be provided to all employees of an LDSS in place of compensation for additional hours worked during specific time (e.g., holidays). when they work more than forty (40) hours in a workweek. This leave is earned hour-for-hour and should not be confused with compensatory leave. Special duty leave is not governed by or associated with the Fair Labor Standards Act (FLSA).
24. Starting Pay: The initial salary or wage that an employee receives upon beginning employment with an LDSS. All employees are paid at least the pay band minimum of the State Compensation rate for the corresponding Occupational Title.
25. Temporary/Acting Pay: Additional compensation that may be granted to an employee in the following circumstances:
    a. When the employee is assigned different duties at the same or higher level of responsibility on an interim basis.
    b. When there is a need for additional assignments related to a special time-limited project.
    c. When the employee is tasked with performing duties of a higher-level position.
26. Voluntary Lateral Transfer (Competitive): An internal applicant competes for and accepts a different position on the same pay band and tier as his/her current position.
27. Voluntary Lateral Transfer (Non-Competitive): An LDSS accepts a current employee's request to move to a different position on the same pay band and tier as his/her current position.

PART III: HOLIDAYS

1. Holiday: A designated day when LDSSs are closed and LDSS employees receive paid time off. There are thirteen (13) observed holidays: New Year's Day; Martin Luther King Day; President's Day; Memorial Day; Juneteenth; Independence Day; Labor Day; Columbus Day; Election Day; Veteran's Day; Thanksgiving Day; the Friday after Thanksgiving Day; and Christmas Day. LDSSs will also close and observe additional official, paid holidays declared by the Governor that do not appear on the list of the thirteen (13) observed holidays.
2. Religious Accommodation: Adjustments made to allow individuals to practice their religious beliefs without discrimination or undue hardship.