

State of Wisconsin

DEPARTMENT OF EMPLOYMENT RELATIONS

- *CLASSIFICATION & COMPENSATION BULLETIN* -

- *COLLECTIVE BARGAINING BULLETIN* -

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Subject: Wisconsin Human Resources Handbook
Chapter 736: Release, Reassignment and
Interchange of Employees Due to Emergency
Situations

Attached is a revised Chapter 736 of the Wisconsin Human Resources Handbook: Administration, Classification, and Compensation. It replaces the existing Wisconsin Personnel Manual Chapter 736, dated January 5, 1989, which is obsolete and should be destroyed.

The Chapter has been revised mainly to update statutory references. This revised Chapter will be issued as an attachment to the Executive and Agency Inclement Weather Policy which is issued to agencies on an annual basis.

Questions concerning nonrepresented employees should be directed to the Division of Classification and Compensation at (608) 266-8250. Questions concerning represented employees should be directed to the Division of Collective Bargaining at (608) 266-7808.

James A. Pankratz, Administrator
Division of Classification & Compensation

Joseph P. Pellitteri, Deputy Secretary
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Attachment

Wisconsin Human Resources Handbook

Chapter 736

Release, Reassignment and Interchange of Employees Due to Emergency Situations

Sec. 736.010 Introduction

Sec. 736.020 Coverage

Sec. 736.030 Statutory & Rule Authority

Sec. 736.040 Definitions

Sec. 736.050 Notification of Order to Close
State Offices

Sec. 736.060 Treatment of Absences

Sec. 736.070 FLSA, Make-Up Time, & Leave
Without Pay

Sec. 736.080 Temporary Reassignment

Sec. 736.090 Temporary Interchange

Sec. 736.100 Referral of Questions

Sec. 736.010 Introduction.

It is recognized that emergency situations may arise necessitating the need for:

- (1) Release of employees from assignments for periods of time for their own safety or well-being; or
- (2) Temporary assignment of work to employees which is not normally performed or described in their position descriptions; or
- (3) A temporary interchange of employees between agencies.

Policies and procedures covering such release, temporary assignment, or interchange are set forth in this chapter.

Sec. 736.020 Coverage.

The provisions of this chapter apply as follows:

- (1) Except as provided in (2), below, they have full application to all individuals who meet the definition of “employee” under section 736.040, of this chapter.
- (2) They have limited application to employees covered by a collective bargaining agreement.

NOTE: Employees covered by a collective bargaining agreement whose contract includes specific provisions for the emergency release of employees from duty in the event of inclement weather, hazardous driving conditions, or other emergency situations shall be governed by and act in accordance with the provisions contained in the current contract. If the situation occurring is not covered under the negotiated agreement, the employees will be subject to the policies and procedures set forth in this chapter.

- (3) They do not apply to other employee groups.

Sec. 736.030 Statutory and Rule Authority.

- (1) Section 230.35(5)(c), Wis. Stats. contains the provisions for closing state offices due to emergency situations.
- (2) Section 230.35, Wis. Stats., and Chapter ER 18, Wis. Adm. Code contain provisions for the use of paid and unpaid leave to cover absences from work for nonrepresented employees.
- (3) Collective bargaining agreements may contain provisions regarding emergency release of represented employees.
- (4) Section 20.922(2), Wis. Stats., contains the provisions for temporary reassignment of duties during emergency situations.
- (5) Section 20.901(1)(b), Wis. Stats., contains the provisions for temporary interchange of employees during emergency situations.
- (6) Chapter ER 47, Wis. Adm. Code, contains the provisions on employee compensation while serving on a temporary interchange.
- (7) The State Compensation Plan for Nonrepresented Employees contains provisions regarding overtime during a declared emergency.

Sec. 736.040 Definitions.

For purposes of this chapter, terms are defined as follows:

- (1) "Employee" means any person who receives remuneration for services rendered to the state under any employer-employee relationship in the classified or unclassified service *except*:
 - (a) Elected officials;
 - (b) Unclassified staff at the University of Wisconsin System not identified under s. 20.923(4) or (4m), Wis. Stats.;
 - (c) Unclassified staff of the legislature not identified under s. 20.923(4), Wis. Stats.;
 - (d) Unclassified staff of a legislative service agency under subch. IV of ch. 13, Wis. Stats.;
 - (e) One stenographer employed by each elective constitutional officer under s. 230.08(2)(g), Wis. Stats.; and
 - (f) Staff of the state court system.

Sec. 736.050 Notification of Order to Close State Offices.

(1) Executive Office

Section 230.35(5)(c), Wis. Stats., provides that:

“The governor may order some or all of the offices and other work stations of the departments of state government closed for specified periods of time or may order such other deviations in office hours or the standard basis of employment as may be necessitated by weather conditions, energy shortages or emergency situations. The governor’s order may specify how any time off or other deviation occasioned by the order may be covered for state employees.”

(2) Office of State Employment Relations

- (a) The Division of Compensation and Labor Relations will maintain an updated listing of all agency personnel managers.
- (b) The Division of Compensation and Labor Relations will notify the affected agency personnel offices of the Governor’s decision.

(3) Agencies

- (a) Establish a notification procedure within the agency whereby a single call from the Office of State Employment Relations to the agency personnel office will result in expeditious dissemination of such message to all employees of that agency.
 - (b) When contacted by OSER, immediately determine if a skeletal crew is necessary to maintain offices or for security reasons, and notify all agency employees.
- (4) Employees will normally be given the option of remaining at or leaving their work station. This would apply to all employees except employees whose continued presence is required.

Sec. 736.060 Treatment of Absences Due to Closing of State Offices and Emergency Situations

(1) Employee Requests or Opts to be Excused

- (a) Employees *may request or be allowed* to be excused from work when they believe that weather conditions or emergency situations make it unsafe to get to or remain at work.
- (b) The appointing authority may charge any such approved absence to the appropriate paid leave type designated by the employee *or* require the employee to make up the lost time. The employee may be given the additional option of taking leave without pay at the discretion of the appointing authority. Make-up time and leave without pay are subject to the restrictions contained in section 736.070, of this chapter.

(2) When Employees are Ordered to Leave or Not Report

- (a) Employees *may be ordered* to leave or not report to work because the Governor or the appointing authority has determined that conditions exist which are detrimental to the health and safety of employees.
- (b) When employees are *ordered* to leave, they will have the following options, subject to the restrictions contained in section 736.070, of this chapter:
 - 1. Using accrued annual leave, accrued holiday time, or accrued compensatory time;
 - 2. Taking leave without pay; or
 - 3. Making up the lost time at a time to be scheduled by the appointing authority.

Sec. 736.070 Fair Labor Standards Act, Make-Up Time, and Leave Without Pay

(1) Non-Exempt Employees

- (a) The appointing authority should require that make-up time be scheduled during the current work week, if necessary, to avoid overtime hours in future work weeks.

EXAMPLE:

A non-exempt employee worked 32 hours by the end of the day on Thursday. Overnight there was a snowstorm. The employee felt the weather was too hazardous to make it to work on Friday. If the employee makes up the eight hours of lost time on Saturday, the employee works 40 hours in the affected work week.

On the other hand, if the nonexempt employee is permitted to make up the time on Sunday, rather than Saturday, and in addition works a regular 40-hour weekly schedule, the employee would normally be entitled to overtime compensation for all hours worked in excess of 40 hours that work week. Premium rate is required under FLSA for represented nonexempt employees even if not required by the labor agreement.

- (b) Leave without pay deductions may be made for hourly nonexempt employees in any time increments necessary to cover the time lost.

(2) Exempt Employees

- (a) The employing agency has more flexibility in scheduling the make-up time for employees who are exempt from the overtime provisions of the FLSA and, therefore, are normally not paid for overtime hours. However, if the affected exempt employees are entitled to premium rate for overtime pursuant to the Compensation Plan or labor agreement, the appointing authority should require that make-up time be scheduled during the current workweek, if necessary, to avoid overtime hours in future workweeks.
- (b) Leave without pay deductions may be made for exempt employees in any time increments necessary to cover the time lost.

Sec. 736.080 Temporary Reassignments During Emergency Situations

Section 20.922(2), Wis. Stats., provides that during emergency situations, following written notification to the Governor, an appointing authority may temporarily reassign work to employees which is not normally performed by them or described by their position classifications. Such temporary assignment shall not exceed 72 hours unless an extension is approved by the Governor or his or her designee.

Sec. 736.090 Temporary Interchange of Employees During a Declared Emergency

- (1) Notwithstanding ss. 230.047 and 230.29, Wis. Stats., regarding Temporary Interchange of Employees and Transfers, respectively, section 20.901(1)(b), Wis. Stats., provides that, in an emergency situation, state agencies may cooperate to maintain required state services through the temporary interchange of employees.
 - (a) Where an *appointing authority* declares an emergency, the interchange of employees shall be voluntary on the part of those employees designated by the sending state agency as available for interchange and may not exceed 72 hours unless an extension is approved by the Governor or his or her designee.
 - (b) Where the *Governor* or his or her designee declares an emergency, the Governor may require a temporary interchange of employees.
- (2) Rate of Pay
 - (a) Unless otherwise authorized by the Director, Office of State Employment Relations, pursuant to s. 20.901(1)(b), Wis. Stats., the provisions of s. ER 47.05(1)(a) and (b), Wis. Adm. Code, shall determine employee compensation during a temporary interchange. Wisconsin Personnel Manual Chapter 520 contains the provisions for overtime during declared emergencies.
 - (b) Pursuant to s. 20.901(1)(b), Wis. Stats., state agencies receiving employees on interchanges shall keep appropriate records and reimburse the sending state agencies for authorized employee salaries and expenses.
 - (c) Pursuant to s. 20.901(1)(b), Wis. Stats., the Director of the Office of State Employment Relations may institute temporary pay administration policies as required to facilitate the handling of such declared emergencies.
 - (d) Collective bargaining agreements may contain specific provisions regarding the interchange of employees. See the applicable collective bargaining agreement for further information.

Sec. 736.100 Referral of Questions

Questions regarding emergency release of nonrepresented employees should be directed to the Division of Compensation and Labor Relations at (608) 266-8250. Questions regarding emergency release of represented employees should be directed to the Division of Labor Relations at (608) 266-7808.