

 <b>NEW YORK STATE</b>	<b>Corrections and Community Supervision</b>  <b>DIRECTIVE</b>	TITLE  <b>Civilian Employee Intershift/RDO Swaps</b>		NO. 2224
		DISTRIBUTION A		DATE 10/27/2020
SUPERSEDES DIR.# 2224; Dtd. 12/05/19		PAGES PAGE 1 OF 4		DATE LAST REVISED
REFERENCES (Include but are not limited to) NYS Attendance Rules		APPROVING AUTHORITY 		

- I. **OBJECTIVE:** To provide a standard policy for the recording, monitoring, and controlling of swapping by civilian employees. The corresponding procedures will provide both the Department and its employees a resource to utilize for titles which are difficult to recruit qualified individuals. This policy is intended to be both simple and effective.
- II. **DEFINITION:** A swap is a voluntary exchange (trade) of specific shifts (tours of duty) by two employees in the same title that (a) is initiated solely for the benefit of the affected employees, and (b) under normal circumstances, will not affect the compensable hours worked by each employee. For accounting purposes, a swap is defined as a total exchange with two parts: the initial swap and the payback.
- III. **TIME PERIODS**
  - A. All swaps must be repaid within 90 days of the initial swap date.
  - B. All swaps must be requested by the completion of [Form #1032C](#), "Request for Exchange of Regular Work Duty – Civilian Employee Intershift/RDO Swap," signed by both employees, and submitted to the Unit Supervisor (or designee appointed by the Superintendent) at least 48 hours in advance of the affected shift. Only one swap may be requested on each form. All completed swap forms must list specific dates and shifts. Open-ended swaps (defined as swaps with no specific payback date) are not allowed. Swap forms submitted without the 48-hour advance notification must be for a compelling reason, and approved by the appropriate Deputy Superintendent overseeing the area or equivalent.
  - C. A scheduled swap can be canceled by either employee up to 24 hours before the initial swap shift. Swaps must be canceled by submitting a new [Form #1032C](#) to the Unit Supervisor.
- IV. **SWAP PAYBACKS**
  - A. The only acceptable means of payback for a swap is physically working a full shift, except for the circumstances specified in Section IV-E below. Under no circumstances can a swap be paid back in any other form by the employee.
  - B. Paybacks must be on a one-for-one basis. Extra shifts cannot be worked as payback for highly desirable days off such as Christmas. This is prohibited by Federal law.
  - C. Once the initial swap has been worked, the payback date cannot be changed or canceled without signed approval by the Deputy Superintendent overseeing the area or equivalent.

- D. No third-party swaps are allowed except in cases of a documented emergency and with signed approval at or above Deputy Superintendent or equivalent.
- E. Any swap not repaid will result in a charge to appropriate leave credits, if available, in this order: Personal Leave first, and if unavailable, Annual Leave. If neither Personal or Annual Leave is available, the owing employee will be docked a day's pay. The employee owed the swap will receive monetary compensation. This transaction will only occur under the following circumstances:
  - When a swapping employee transfers out from the facility where the swap occurred;
  - When the swapping employee resigns or is terminated;
  - When the swapping employee is on extended sick leave beyond the payback period (refer to Section III-A); or
  - When the swap is not repaid within 90 days, except when an employee involved in the swap is called to ordered military duty (see Section V-K and L).

NOTE: Any circumstances not outlined above should be reviewed with your Central Office Personnel Representative on a case-by-case basis.

## **V. ELIGIBILITY AND RESTRICTIONS**

- A. Swaps can only be made by employees that are covered under the New York State Attendance Rules.
- B. Swaps can only be made by employees in titles that provide coverage 24 hours a day, seven days a week, at the employing facility.
- C. Swaps can only be made by employees in the same title doing the same type of work at the same location.
- D. Swaps can only be made by employees in the PS&T Bargaining Unit.
- E. Permanently assigned probationary civilian staff cannot swap until they have been assigned to a facility for a minimum of 30 days.
- F. Swaps must be for full shifts only. No partial shift swaps will be allowed.
- G. No overlapping swaps are allowed.
- H. No time off will be granted for any employee working a swap except in cases of documented emergency and with signed approval at or above the rank of Deputy Superintendent or equivalent.
- I. Employees cannot work more than two consecutive shifts in a row.
- J. No employee can work a swap on a known scheduled training shift.
- K. All owed swaps must be repaid before an employee is promoted, appointed to a new title, or reassigned to another facility. Otherwise, there will be a charge to appropriate leave credits or a pay dock as outlined in Section IV-E.
- L. Scheduled swaps for which the initial swap has not been worked will be canceled if one of the parties is on active military duty on the date of the initial swap or the swap payback.



- M. Scheduled swaps for which the initial swap has been worked will be held in abeyance if one of the parties is on active military duty. In these instances, the calculation of time from the initial swap date is suspended until the first day the employee returns to work from active military duty.
- N. Scheduled swaps for which the initial swap has not been worked and one of the parties is on workers' compensation, child rearing leave, or extended sick leave will be canceled. Scheduled swaps for which the initial swap has been worked and one of the parties is on workers' compensation leave, child rearing leave, or extended sick leave will be modified. The time period for repaying a swap, as outlined in Section III-A of this directive, remains in effect.

## VI. EMPLOYEE RESPONSIBILITIES

- A. Swaps are strictly voluntary between two employees, and employees are under no obligation to agree to a swap request.
- B. An employee working a swap waives any consideration of such hours for overtime compensation, or in the case of a holiday shift, any additional holiday compensation.
- C. All employees working swaps are responsible for fulfilling their commitment and reporting on time.
- D. The employee originally scheduled for a shift remains responsible for coverage of the shift in the event that the employee working the swap does not report. If no one reports for the shift, the originally scheduled employee will be considered AWOL, and will not be paid for the shift.
- E. An employee scheduled to work a swap, who for whatever reason cannot report, must contact the originally scheduled employee immediately. If they cannot contact the employee, the Unit Supervisor or Watch Commander on off shifts must be notified prior to the start of the shift. An employee who fails to do so and/or fails to report may be penalized in line with the Department's disciplinary process and/or lose swapping privileges for a specified period of time.

## VII. RECORDING AND MONITORING SWAPS

- A. Employees working a swap must complete their time cards in the normal manner. After making final entry for the shift, the employee shall write in "Swap On" and the name of the employee they are working for next to the last entry.
- B. Employees who did not work a scheduled shift because of a swap, must make an entry on the corresponding date of their time card by writing "Swap Off" and the name of the employee who worked.
- C. The Unit Supervisor is responsible for reviewing and approving all swap request forms. Prior to approving or denying a swap, supervisors should consider the overall impact on the operation of the unit.
- D. The Unit Supervisor will forward a copy of the approved [Form #1032C](#) to the Timekeeper the same day the form is approved. If the form is approved 24 hours before the initial swap shift, the Unit Supervisor will hand deliver the approved [Form #1032C](#) to the Timekeeper.



- E. The Timekeeper will post from the approved [Form #1032C](#) and reconcile the postings to the employee time cards at the end of each pay period. Any discrepancies will be reported to the Deputy Superintendent for Administration or equivalent.
- F. The Deputy Superintendent for Administration or equivalent will investigate all discrepancies and follow up with the Unit Supervisor/Employee/Timekeeper as appropriate.
- G. The swap request form will consist of a 5-part NCR form. One copy will go to each of the parties to the swap, one copy to the Unit Supervisor, and two copies will go to the Timekeeper.

**VIII. PENALTIES:** Violations of Statewide swapping rules may be dealt with through counseling or, if necessary, disciplinary action in accordance with the negotiated labor contract. Penalties may include suspension or permanent loss of swapping privileges where appropriate.

#### **IX. MANAGEMENT AUTHORITY**

- A. Facility Superintendents must take appropriate steps to ensure that procedures and practices in place at their respective facilities fully comply with the provisions of this policy, and that sufficient safeguards exist to adequately record, reconcile, and monitor swaps. This policy and related procedures may not be a subject for local labor/management negotiations. The forms and recordkeeping practices specifically identified within this policy must be used and followed without modification. Facilities, however, may supplement this policy for the purpose of clarification or control by promulgating more detailed procedures as deemed necessary to ensure full compliance.
- B. The Department has full authority to audit all documents and records associated with swapping to ensure full compliance with this policy.
- C. Management retains full authority to rescind, modify, or amend this policy at any time. However, prior to rescinding, modifying, or amending this policy, management shall provide 120 days notice to the union and, upon the union's request, shall meet and confer with the union over possible mutually acceptable alternatives prior to rescinding, modifying, or amending this policy.

**REQUEST FOR EXCHANGE OF REGULAR WORK DUTY - CIVILIAN EMPLOYEE INTERSHIFT/RDO SWAP**  
PURSUANT TO SECTION 134, CIVIL SERVICE LAW, RULES FOR OVERTIME COMPENSATION, SECTION 135.5, SUBDIVISION E

PRINT FILL IN ALL BLANKS	FACILITY:	DATE OF REQUEST:

NAME OF EMPLOYEE REQUESTING SWAP	TITLE	ITEM #	RDO SQUAD
NAME OF EMPLOYEE WHO WILL WORK THE SWAP	TITLE	ITEM #	RDO SQUAD

SWAP DATE	SHIFT
SWAP PAYBACK DATE	SHIFT

☐ CANCEL THIS PREVIOUSLY APPROVED SWAP\*

☐ MODIFY THIS PREVIOUSLY APPROVED SWAP\*\*

NEW PAYBACK DATE IS \_\_\_\_\_

A SWAP MUST BE REPAID WITHIN 90 DAYS OF THE DATE THE INTIAL SWAP IS WORKED.

COMPENSATION: For purposes of computing overtime, all hours worked pursuant to this agreement shall be considered as hours worked by the employee who was originally scheduled to work such hours.

The employee performing the hours worked in exchange waives consideration of such hours for overtime compensation of, in the case of a holiday shift, any additional holiday compensation.

The exchange of hours is voluntary and no employer obligation is incurred.

\*CANCELLATION: YOU ARE ALLOWED TO CANCEL A SWAP ONLY WHEN NEITHER PORTION OF THE SWAP HAS BEEN WORKED.

Cancellations must be signed by a Unit Supervisor or higher administrator.

\*\*MODIFICATION: Once the initial swap has been worked, a new payback date must be submitted if the original payback date cannot be worked. A payback date cannot be changed without signed approval. Accruals or pay must be exchanged if the swap is not completed as agreed.

SIGNATURES: A swap request, cancellation or modification must be signed by both employees.

Your signatures indicate the information submitted on this form is correct and you are aware of and in full agreement with the Department's swapping policy as set forth in Directive #2224, "Civilian Employee Intershift/RDO Swap".

SIGNED	DATE	PHONE#
SIGNED	DATE	PHONE#
APPROVED <input type="checkbox"/>	DISAPPROVED <input type="checkbox"/>	REASON
(NAME & TITLE)		DATE

DIST: Original - Unit Supervisor

Copy to each employee

2 copies to the Timekeeper