

OVERTIME FOR TITLE 5 EMPLOYEES

SECTION 1. GENERAL PROVISIONS: In accordance with Title 5 of the United States Code, the Fair Employment Practice Agency (FEPA), and other applicable statutes and government-wide regulations, employees shall be compensated for overtime hours worked based on their Fair Labor Standards Act (FLSA) designation and the provisions of this CBA.

A. FLSA Exemption Status: All Bargaining Unit positions will be determined to be FLSA "exempt" or "non-exempt" at the time the position is classified. When classification actions are proposed that will result in a change to the FLSA determination, the proposed changes will be provided to the employees and the Union thirty (30) calendar days prior to the effective date.

B. Type of Overtime:

1. *Scheduled (Regular):* Any overtime work scheduled in advance of the administrative work week as part of an employee's regularly scheduled work week. The employee shall be compensated for regular overtime worked in 15 minute increments, IAW the provisions of OPM regulations (ATAAPS Code "OS").
2. *Unscheduled (Irregular or Occasional):* Overtime that was not scheduled in advance of the administrative work week and is made a part of an employee's scheduled work week. Unscheduled overtime is paid in the same manner as scheduled overtime work (ATAAPS Code "OU").
3. *Call-Back:* Any employee called back to perform unscheduled overtime work, either on a regular workday after the employee has completed his or her regular shift and left the Agency, or for a day outside of his basic work week, shall be paid a minimum of two (2) hours overtime pay (ATAAPS Code "OC").

SECTION 2. DISTRIBUTION OF OVERTIME: The Union recognizes that management has the right to assign overtime work. The Agency recognizes that unscheduled overtime is a problem for the employee as well as the Agency and will ensure fair and equitable assignments of overtime work among employees determined to be qualified to perform the work. Overtime will not be distributed or withheld to reward or penalize employees.

A. Notice: The Agency agrees that for scheduled overtime, unless emergency situations preclude sufficient notice to its employees, employees who are required to work will be notified by their supervisor at least 24 hours before overtime work is required. In order to request to be excused from scheduled overtime, an employee must notify the supervisor of their potential unavailability for overtime assignments by the close of their shift on the day preceding the overtime. If notification is not given by this deadline, the employee will work as assigned. When an overtime assignment is excused at the request of an employee, after the deadline, for any reason, the supervisor may fill the void with any available employee, and the assigned employee will be moved to the bottom of the mandatory list.

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B. Voluntary Basis: Where overtime work is available, it will be offered by the supervisor on a voluntary basis to qualified employees before he or she directs mandatory overtime.

C. Rosters: One roster for each job category will be maintained and labeled "voluntary overtime" (based on seniority) and another for each job category will be maintained and labeled "mandatory overtime" (based on inverse seniority). The Agency will first try to fill the need by asking for volunteers.

1. **Rotation:** Once an employee works an overtime assignment after being chosen from the roster, that employee's name will be placed at the bottom of the roster. Employees who have declined an offer of overtime (voluntary) work will remain in the same place on the roster pending the next offer. Once an employee accepts an overtime assignment they will move to the bottom of the roster upon completion of the overtime work.
2. **Absence:** Employees who are on leave, TDY, or otherwise unavailable for an overtime assignment will remain in the same place on the roster, pending their return to duty.
3. **Newly Assigned Employees:** Newly assigned employees will be placed on the appropriate roster at the bottom of the voluntary list and the top of the mandatory list. Employees that are detailed or temporarily assigned to a new unit will be placed on the roster in the same manner.
4. **Details and Temporary Reassignments:** If an employee is detailed or otherwise temporarily assigned outside of his or her supervisor's work unit, the employee will remain at the current position on the roster during the duration of the detail or temporary assignment.
5. **Qualifications:** Supervisors may skip an employee on the roster when it is determined that the particular individual does not possess all the qualifications to perform the particular overtime assignment. In such cases, the employee retains his or her position on the roster for the next assignment.

D. Documentation: The supervisor will maintain a hard copy of the overtime rosters and shall be able to demonstrate that overtime assignments have been managed IAW this Article. Upon request, current rosters will be made available to all employees and subject to inspection by a Union representative.

E. Resetting of Rosters: Overtime rosters shall be reset according to the employees SCD date on January 1 of each year.

SECTION 3. RATE OF PAY: When an employee works overtime, whether covered by the Fair Labor Standards Act or exempt, such overtime will be paid in increments of 15 minutes.

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A. FLSA Non-Exempt: Overtime pay for FLSA non-exempt employees is equal to one and one-half (1.5) times the employee's hourly rate of pay.

B. FLSA Exempt: Overtime pay for FLSA exempt employees is equal to one and one-half (1.5) times the employee's hourly rate of pay. However, if the employee's rate of pay exceeds the rate for a GS-10, Step 1, including any applicable special rate of pay or special pay adjustments, a locality-based comparability payment, or any applicable special rate of pay, the overtime rate is the greater of:

1. One and one-half (1.5) times the applicable minimum hourly rate of basic pay for GS-10, Step 1; or
2. The employee's hourly rate of basic pay.

SECTION 4. COMPENSATORY TIME IN LIEU OF OVERTIME PAY:

A. Election: Employee requests to work overtime shall be subject to supervisory approval. No employee shall be required to earn credit hours in lieu of earning overtime. Non-exempt employees shall not be required to accept compensatory time off in lieu of payment for any overtime work performed, whether at the employees request or the supervisor's direction. This includes employees on alternate and regular work schedules. Employees may initiate written requests for compensatory time off or credit hours in lieu of overtime pay, which the Agency will consider and acknowledge.

B. Telework Employees: An employee's pay will not be negatively impacted solely by the employee's decision to telework. Overtime pay, premium pay, special salary rate, and other entitlements continue while the employee telecommutes as long as the employee remains eligible under Federal pay laws/authorities for overtime pay, premium pay, special salary rates, and other entitlements. Employees will be notified by the Agency prior to accepting telework of any consequences to their pay entitlements that will result from telework.

C. Usage: Compensatory time off earned must be used by the end of the 26th pay period after such time was earned.

D. Payment of Unused Compensatory Time:

1. **FLSA Non-Exempt:** Upon expiration of twenty-six (26) pay periods or upon separation of the employee from the Agency, the Agency will pay FLSA non-exempt employees for any unused compensatory time off, earned in lieu of overtime pay to the employee's credit, at the overtime rate in effect when the compensatory time off was earned. Compensatory time earned for travel will be handled in accordance with 5 C.F.R. Part 550.

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2. **FLSA Exempt:** FLSA exempt employees' earned compensatory time off will be forfeited if not used prior to the expiration of twenty-six (26) pay periods. However, if an employee is prevented from using compensatory time off due to an exigency of the Agency's business, the unused compensatory time off will be paid out at the overtime rate in effect when earned. Compensatory time earned for travel will be handled in accordance with 5 C.F.R. Part 550.

- a. For FLSA exempt employees, whose rate of basic pay is above the rate for GS-10, Step 10, the Agency may at its discretion require the employee to receive compensatory time off in lieu of overtime pay for irregular or occasional overtime.
- b. FLSA exempt employees whose rate of pay does not exceed the rate for GS-10, Step 10, may request, in writing, to receive compensatory time off in lieu of overtime pay for irregular or occasional overtime. Such written requests will normally be granted, subject to mission requirements. If the employee does not make such a written request, or if the Agency does not approve that request, the employee is entitled to compensation in accordance with the overtime requirements.

SECTION 5. OTHER PROVISIONS:

A. Hold-over: Hold-over overtime assignments will first be offered to qualified employees currently on duty.

B. Compensation for hours worked: Employees shall not be required to perform any work or duty before or after their scheduled work hours without compensation. It is further understood that if an employee is required by the Agency to report to a designated location at a specified time prior to or subsequent to their regular shift hours, such time shall be compensated as set forth in Section 4A above.

C. Overtime Compensation: All employees will be paid for all hours of overtime, the only exceptions being Administrative Leave and Court Leave. Such hours of overtime include all hours scheduled outside the scheduled tour of duty (i.e., any hours more than eight for a standard work schedule).

D. Exceptions: Employees who are on extended annual leave of five or more successive days, or who are on unscheduled sick leave on the day of the overtime assignment, shall not be paid overtime.

E. Training: Employees may be assigned to an overtime situation to obtain specialized training that ordinarily would not be otherwise available.

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F. Breaks: During overtime assignments which extend for four (4) hours beyond the normal eight (8) hour day, affected employees so assigned will be permitted to have a second meal break. Employees required to work through their non-duty meal period shall be paid for such time.

G. Religious Beliefs: When making overtime assignments, management shall consider sincere claims that his or her religious beliefs require that the employee abstain from work during certain periods of the workday or workweek, as provided in 5 C.F.R §550.1002, as a legitimate reason to decline. Employees who have declined to work overtime voluntarily for this reason shall be required to work overtime only if other qualified employees are unavailable.

SECTION 6. STANDBY DUTY AND ON-CALL:

A. Standby Duty: Time spent on standby duty is hours of work if, for work-related reasons, the employee is restricted by official order to a designated post of duty and is assigned to be in a state of readiness to perform work with limitations on the employee's activities so substantial that the employee cannot use the time effectively for his or her own purposes. Employees are compensated if the standby conditions are met in accordance with 5 C.F.R. Part 550 for exempt employees and 5 C.F.R. Part 551 for non-exempt employees.

B. On-Call Status: Time spent in an on-call status is not hours of work, and the employee shall be considered off duty:

1. If the employee is allowed to leave a telephone number or carry an electronic device for the purpose of being contacted, even though the employee is required to remain within a reasonable call-back radius; or
2. If the employee is allowed to make arrangements for another qualified person to perform any work that may arise during the on-call period.

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