

## Office of Personnel Management

### Policy

<b>Policy Title:</b> Compensatory Time	<b>Policy Number:</b> 40.01
<b>Citation:</b> Federal Fair Labor Standards Act	<b>Forms:</b> Employee Leave Request <a href="http://www.dfa.arkansas.gov/offices/personnelManagement/Pages/forms.aspx">http://www.dfa.arkansas.gov/offices/personnelManagement/Pages/forms.aspx</a>

### Purpose

Compensatory time is defined as time earned for work performed in excess of forty (40) hours in the work week. Compensatory time may not be earned in less than fifteen (15) minute increments. Compensatory time is the most desirable method of compensation for overtime work. Overtime payments may be provided if it is necessary for the continued effective operations of the state and is managed in the most efficient and economic manner possible.

The term agency, as used herein, shall mean all state agencies, departments, boards, commissions, institutions of higher education or others as outlined in the Uniformed Attendance and Leave Policy.

### Specific Provisions

Non exempt employees are eligible for compensatory time in lieu of a cash overtime payment. Except for certain categories of works, e.g., fire fighters and law enforcement, etc., all employees performing qualifying nonexempt work within a work week will accrue compensatory time at a rate of one and one-half times the number of hours worked in excess of 40 hours.

There are two categories of nonexempt employees:

1. Those whose normal work period is a 40 hour work week, and;
2. Those employees who, by virtue of their job activities, are considered:
  - A. Seasonal
  - B. Fire Protection, or
  - C. Law Enforcement

Employees in Category B and C are not on a regularly scheduled 40 hour work week, but have pre-established periods from 7 to 28 days in length.

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If an agency pays its employees for overtime in the form of compensatory time off as opposed to cash payment, the following points must be noted:

1. The employees in Category A cannot accrue more than 240 hours in compensatory time off.
2. The employees in Category B and C cannot accrue more than 480 hours in compensatory time off.

If an employee in either category exceeds the maximum established, they must be compensated in cash payment for any hours in excess of the 240/480 limit.

An agency has the option of paying overtime in a combination of cash and compensatory time at the rate of time and one-half; however, this policy must be consistently applied for all eligible employees.

Compensatory time must be earned before it can be used. The time used will be deducted from the employee's accrued compensatory time. All compensatory time of fifteen (15) minutes or more must be accounted for, whether earned or used.

When an employee uses earned compensatory time, he/she shall be paid at his/her current grade.

Compensatory time may be used in lieu of sick leave or annual leave.

Compensatory time may be earned only with the prior approval of the Agency Director, Institution Head or his/her designee.

Employees shall request to use earned compensatory time by completing a request for leave form.

Upon termination from employment, the employee is to receive cash payment for any overtime accrued which has not been used at a rate not less than:

1. The average regular rate received by an employee during the last three (3) years of his/her employment; or
2. The final regular rate of pay received by an employee, whichever is higher.

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If an employee is classified in an exempt classified title, it is possible for the agency to present justification to the Office of Personnel Management that the overall duties and tasks being performed are nonexempt in nature. The following documentation should be presented:

1. An internal job description listing the specific tasks.
2. A detailed percentage allotment of time spent in the performance of these tasks based on 100%. (Example: typing - 35%; answering phones - 20%, etc.)
3. The position control number and the name of the employee involved.

The Office of Personnel Management will review the materials, determine if the nonexempt category is justified and recommend that overtime compensation at the rate of time and one-half be given the employee. An exception will be made for that class or position only within that agency.

When an employee transfers from one (1) state agency or institution of higher education to another, the original state agency or institution of higher education where the employee accrued the compensatory time will pay the employee the balance of their compensatory time in a lump sum payment before transferring to the new agency or institution of higher education.

June 1, 2012