



## Department of Transformation and Shared Services Office of Personnel Management

**Policy Title:** Overtime and Compensatory Time (FLSA)

**Policy Number:** 28

**Authority:** Ark. Code Ann. §§ 19-4-1612 and 21-5-214; Fair Labor Standards Act

**Revised:** April 6, 2020

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### Overtime

Overtime is any hour worked in excess of 40 hours in a work week. Non-exempt employees must be paid for the extra hours worked at a rate of time and a half (1 ½). The Secretary of the Department of Transformation and Shared Services will designate the employees that are eligible to receive overtime compensation, the circumstances which overtime pay will be allowed and anything else necessary to comply with federal law.

Employees classified in exempt titles may earn overtime if the agency presents to the Office of Personnel Management (OPM) sufficient information that the duties and tasks performed are nonexempt in nature. The agency must present the following:

1. The position control number and the employee's name;
2. An internal job description listing the specific tasks performed; and
3. A detailed percentage allotment of time spent in the performance of the tasks with a maximum of 100%.

If OPM determines that the nonexempt status for overtime purposes is justified, an exception will be made for that class or position only within that agency.

Overtime pay is the least desirable way of compensating an employee for overtime work; therefore, agencies are authorized to provide compensatory time as compensation for overtime work. If it is necessary for the continued effective operations of the agency then overtime payments may be provided.

### Compensatory Time

Compensatory (comp) time is time earned, in lieu of a monetary payment, for any work performed in excess of 40 hours in a work week. Comp time is provided at a rate of time and a half (1 ½) and may not be earned in less than 15 minute increments.

Employees whose normal work period is 40 hours a week cannot accrue more than 240 hours in comp time and the employee will be paid for any time that exceeds 240 hours.

Employees that are seasonal, fire protection or law enforcement cannot accrue more than 480 hours in comp time and the employee will be paid for any time that exceeds 480 hours.



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When an employee uses earned comp time, he or she will be paid at the base rate of pay of the current grade. An agency may pay overtime in the combination of payments and comp time at the rate of time and a half (1 ½) as long as it is consistently applied. When an employee transfers to another agency or terminates employment, the original agency must pay the employee the balance of their unpaid overtime or unused comp time in a lump sum payment at the higher rate of the following:

1. The average regular rate received by the employee during the last 3 years of employment; or
2. The final regular rate of pay received by the employee.

Comp time may only be earned with prior approval from the employee's supervisor for a legitimate business purpose and must be earned before it can be used. Comp time should be used in lieu of annual leave and may be used in lieu of sick leave.

Agencies are required to maintain complete and accurate records in AASIS regarding comp time earned and used.