

ARTICLE 19
OVERTIME AND COMPENSATORY TIME

Section 19.01 - General. Overtime pay provided for in this Article is pay for hours of work officially ordered or approved in excess of eight hours per day (or other approved daily alternative schedule) or 40 hours in an administrative workweek (or other approved weekly alternative schedule) for nonexempt federal employees covered under the Federal Labor Standards Act (FLSA) and 5 CFR 551. Overtime provisions for FLSA exempt and non-exempt federal employees are found at 5 USC 5541 and 5 CFR 550.101. Compensatory time provisions are covered under 5 USC 5543 and 5 CFR Part 550.114. Travel compensatory provisions are covered under 5 CFR 551.422.

- (1) FLSA Exempt employees are not covered by the minimum wage and overtime provisions of the Fair Labor Standards Act.
- (2) FLSA Nonexempt employees are covered by the minimum wage and overtime provisions of the Fair Labor Standards Act.

Section 19.02 - Eligible Positions. All bargaining unit positions will be determined to be FLSA exempt or nonexempt at the time the position is classified and this information will be communicated on the vacancy announcement and position description. The Union may request a list of FLSA exempt and non-exempt positions from the Office of the Chief Human Capital Officer (OCHCO). Upon request, The Department will provide a listing of bargaining unit employees with their in FLSA status on a quarterly basis. FLSA determinations will be based on current law, rule, and regulation.

Exempt employees may be eligible for overtime or compensatory time with supervisory approval.

The use of official time during a pay period shall not be sufficient cause to exclude an employee from working overtime.

Section 19.03 - Types of Overtime Work. Generally, this Article refers to two (2) types of overtime work:

- (1) Regular and recurring overtime work scheduled in advance of the administrative workweek as part of the employee's regularly scheduled tour of duty; and
- (2) Irregular or occasional overtime which is intermittent and usually ordered on short notice.

Section 19.04 - Authorization for Overtime/Compensatory Time. The Department may order overtime in writing such as in email, and the overtime will be documented using webTA or the successor timekeeping system. If available, employees may request compensatory time or overtime when there is an inability to complete work assignments during their regular schedule.

Section 19.05 - Approval. All overtime and compensatory time must be approved in advance by the appropriate official, except where employees are entitled to overtime within the meaning of the Fair Labor Standards Act.

Section 19.06 - Compensation for Overtime Work.

- (1) Consistent with the Fair Labor Standards Act (FLSA) and other applicable laws and regulations, nonexempt employees and exempt employees whose salary is less than or equal to GS-10/10 will be allowed to choose between compensatory time and overtime pay.
- (2) FLSA exempt employees whose salaries are in excess of GS-10/10 shall be given the option to receive overtime pay or compensatory time for irregular or occasional overtime, except that they may be required to accept compensatory time in lieu of overtime pay if valid reasons preclude The Department from payment of overtime.
- (3) In accordance with applicable law and implementing regulations, the maximum rate of overtime pay shall not exceed times the hourly rate of the basic pay of a GS-10, step 1. FLSA nonexempt employees are not subject to maximum earnings limitations.
- (4) The Department shall not show preferential treatment to employees based on their choice between taking overtime pay and compensatory time.

Section 19.07 - Accumulation of Compensatory Time. Compensatory time credits shall be used within 26 pay periods after it is earned. While it is the employee's responsibility to track the timeframes for use of earned compensatory time, The Department and the employee are responsible for assuring that earned compensatory time credits are used within the above time frame. If an FLSA nonexempt employee does not request or take compensatory time within the established time periods, the unused compensatory time will be paid at the overtime rate in effect for the work period in which it was earned.

Section 19.08 - Overtime and Compensatory Time While in Travel Status.

- (1) For nonexempt employees, time spent in travel status will be considered work hours. Employees may choose between overtime or regular compensatory time (and not travel compensatory time) if the employee:
 - (a) is required to travel during regular working hours (i.e., during the regularly scheduled administrative workweek);
 - (b) is required to work while traveling (e.g. being required to drive as part of a work assignment);
 - (c) is required to travel as a passenger on a one (1) day assignment away from the official duty station;
 - (d) or is required to travel as a passenger on an overnight assignment away from the official duty station during hours on non-workdays that correspond to the employee's regular working hours (See 5 CFR 551.422(a).
- (2) For exempt employees, time spent traveling is hours of work which may be subject to overtime or regular compensatory time (and not travel compensatory time) if the travel is:

- (a) within the days and hours of the employee's regularly scheduled administrative workweek, including regularly scheduled overtime hours, **or**
- (b) outside the hours of the employee's regularly scheduled administrative workweek, is ordered or approved, **and** meets one of the following four conditions-
 - i. involves the performance of work while traveling (such as driving a loaded truck);
 - ii. is incident to travel that involves the performance of work while traveling (such as driving an empty truck back to the point of origin);
 - iii. is carried out under arduous and unusual conditions (e.g., travel on rough terrain or under extremely severe weather conditions); or
 - iv. results from an event that could not be scheduled or controlled administratively by any individual or agency in the executive branch of Government (such as training scheduled solely by a private firm or a job-related court appearance required by a court subpoena).

Note: An agency may not adjust an employee's normal regularly scheduled administrative workweek solely to include travel hours that would not otherwise be considered hours of work.

Section 19.09 - Travel Compensatory Time. Compensatory time off for travel (Travel Compensatory Time) is earned by an employee for time spent in travel status away from the employee's official duty station when such time is not otherwise compensable.

- (1) The Department shall credit an employee on an hour for hour basis with travel compensatory time for time in travel status.

For the purpose of compensatory time off for travel, time in a travel status includes:

- (a) Time spent traveling between the official duty station and a temporary duty station;
- (b) Time spent traveling between two temporary duty stations; and
- (c) The "usual waiting time" as defined in 5 CFR 550.1404 (b) preceding or
 - i. interrupting such travel (e.g., waiting at an airport or train station prior to departure).

In circumstances beyond an employee's control, approval may be granted after the fact (i.e, travel delay/emergencies, etc.).

- (2) Travel compensatory time does not impact the budget.

Section 19.10 - Impact of Required Overtime for Leave Purposes. Leave usage or balance will not be a factor in offering or assigning employees overtime. Prior to cancelling or recalling an employee from approved leave, the Department shall consider other qualified employees for assignment of overtime which may result in overtime pay and/or compensatory time. Overtime in conjunction with leave usage in the same pay period is permitted.

Section 19.11 - Recording of Overtime, Compensatory Time and Travel Compensatory Time . The Department agrees that in the scheduling of overtime in advance, such work shall be scheduled in quarter hour increments. Such increments shall be recorded in hours or portions thereof at the end of each pay period for compensation. Any portion of a quarter hour beyond 7 minutes shall be rounded off and recorded at the next higher increment.

Section 19.12 - Rest Breaks on Overtime. Each employee who works overtime shall be entitled to a rest break of fifteen (15) minutes for each four (4) hours of overtime. A rest break may be taken after the first two (2) hours of the overtime period. However, no rest break is intended at the end of the overtime period, nor is it intended that a rest break shall replace or be added to the normal lunch break after a four (4) hour segment of overtime worked.

Section 19.13 - Assignment to Overtime/Compensatory Time Work. The Department shall advise employees that those who desire to volunteer for overtime work may indicate their preference by signing up on a volunteer overtime list which shall be made readily available for inspection. The Department shall first consider the assignment of overtime to volunteers who perform work of the same nature during the time falling within their basic workweek, as well as to other qualified employees having the requisite skills and personal qualifications for the work to be performed. The Department will give fair consideration of all relevant factors prior to bringing employees into an office to work overtime when there are qualified employees currently in that office who have volunteered to work overtime. Assignments of overtime shall be made on a fair and equitable basis in accordance with The Department's need to accomplish the work.

Any adjustments of employee work schedules which may avoid the payments of overtime shall be based on business needs.

Overtime shall be offered to qualified permanent full time employees before being offered to part time or temporary employees.

Section 19.14 - Overtime/Compensatory Time Work. The parties explicitly recognize the Department's right to order or approve overtime work by any employee on any work schedule/tour of duty. Overtime/Compensatory time work will not be distributed or withheld as a reward or penalty.

Section 19.15 - Excusal. Upon request and a reasonable showing that a requirement to work overtime will result in a hardship on an employee, the Department shall excuse the employee from overtime work provided that a comparably qualified employee is available for the assignment. The Parties understand that approved leave may be reasonable grounds for excusal.

Section 19.16 - Election. The election of an employee to request either compensatory time or overtime pay shall not be a factor in the assignment of overtime work.

Section 19.17 - Notice. The Department shall, to the extent practicable, provide employees with two (2) days' advance notice of overtime assignments. Employees will be notified of the cancellation of scheduled overtime.

Section 19.18 - Call-Back Time. Call back overtime is work required outside of the regular tour of duty after the employee has departed the work site. Employees called back to work outside of and unconnected with their regular hours of work shall be paid for at least two (2) hours of work. The Department, to the extent practicable, shall schedule such work for at least four (4) hours on those occasions, if appropriate work is available.

Section 19.19 - Official Vehicle Breakdown. When a vehicle used on official Government business breaks down or is otherwise inoperable, the employee shall, within an hour of the breakdown (or as soon thereafter as practical), provide the supervisor with an estimate of the situation and request instructions. The supervisor shall approve a reasonable amount of official time for the purpose of obtaining emergency repairs. Anytime beyond the end of the employee's tour of duty which constitutes overtime may be approved by the appropriate official, provided the employee presents a brief written explanation and, where available, documentation relating to the emergency.

Section 19.20 - Compensatory Time for Religious Observances. This is covered under Article 15, Section 15.18.