



Department of Transformation and Shared Services Office of Personnel Management

Policy Title: Overtime and Compensatory Time (FLSA)

Policy Number: 28

Authority: Ark. Code Ann. §11-4-210; § 11-4-211; § 19-4-1612; § 21-5-214; and the Fair Labor Standards Act

Effective Date: August 30, 2023

The Fair Labor Standards Act (FLSA) is federal law that establishes minimum wage and overtime pay standards. The [FLSA](#) requires that most employees in the United States be paid at least the [federal minimum wage](#) for all hours worked. In Arkansas, the minimum wage is \$11.00 per hour.

Overtime

The FLSA provides that non-exempt employees are entitled to [overtime pay](#) at not less than one and one-half (1.5) times the regular rate of pay for hours worked over 40 hours in a workweek. An employee's job title alone is not sufficient to determine whether the employee is exempted from the overtime pay requirements. 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 as exempt may earn overtime if the department presents to the Office of Personnel Management (OPM) sufficient information that the duties and tasks performed are nonexempt in nature. The department must present the following:

1. The position control number and the employee's name;
2. An internal job description listing the specific tasks that the employee performs; and
3. A detailed, percentage allotment of time spent performing each task with a maximum of 100%.

If OPM determines that the nonexempt status for overtime purposes is justified, an exception can be made for that classification or position within that department.

Compensatory Time

Compensatory (comp) time is time earned in lieu of a monetary payment for any work performed over 40 hours in a work week. Comp time is provided at a rate of time and a half (1.5) and may not be earned in less than 15-minute increments. Departments are authorized to provide comp time as compensation for overtime work. If it is necessary for the continued effective operations of the department, then overtime payments may be provided.

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.

An employee whose normal work period is 40 hours a week cannot accrue more than 240 hours in comp time. 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. The employee will be paid for any time that exceeds 480 hours.



Department of Transformation and Shared Services Office of Personnel Management

Policy Title: Overtime and Compensatory Time (FLSA)

Policy Number: 28

Authority: Ark. Code Ann. §11-4-210; § 11-4-211; § 19-4-1612; § 21-5-214; and the Fair Labor Standards Act

Effective Date: August 30, 2023

When an employee uses earned comp time, he or she will be paid at the base rate of pay of their current grade. A department may pay overtime in the combination of payments and comp time at the rate of time and a half (1.5), but it must be consistently applied.

When an employee transfers to another department or terminates employment, the original department 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.

A department may establish a policy that when an employee transfers from a non-exempt position to an exempt position within the same department, the department may pay the employee the balance of their accrued comp time. The decision to pay out comp time must be consistently applied within the department.

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