



PERSONNEL POLICY

SUBJECT: OVERTIME AND COMPENSATORY TIME

DATE: February 15, 2023

Number: 108-16

I. Statement of the Policy

It is the policy of Fulton County to properly compensate employees for all time worked, including payment of overtime and accrual of compensatory time, as allowed by and in accordance with applicable law.

II. Applicability

This policy and accompanying procedure apply to all employees who are “non-exempt” as defined in the Fair Labor Standards Act (“FLSA”) and may apply to exempt employees in certain circumstances as set forth herein.

A. Overtime Pay

When operating requirements or other needs cannot be met during regular working hours, employees may be scheduled to work overtime. Non-exempt employees will be paid no less than one and one-half (1.5) times their regular rate of pay for all hours worked in excess of the applicable maximum hours as listed below and as otherwise required by applicable state and federal law, unless the employee receives compensatory time for overtime work as set forth in this policy:

- 40 hours in one standard workweek for all non-exempt employees except those engaged in law enforcement or fire protection activities (as defined in 29 U.S.C. § 207(k));
- 212 hours in one 28-day work period for non-exempt fire protection employees (as defined in 29 U.S.C. §207(k)); or
- 171 hours in one 28-day work period for non-exempt law enforcement personnel (as defined in 29 U.S.C. §207(k)).

These policies do not create a contract of employment. Employment for non-classified employees remains “at will”.

Paid time off such as sick pay, holiday pay, vacation pay, and jury duty pay (where applicable) will not count toward hours worked for the purpose of determining overtime pay.

All overtime work must be authorized in advance by the employee's supervisor. **Employees will be compensated for all time worked.** However, working overtime without prior authorization may result in disciplinary action.

Overtime pay in excess of one and one-half (1.5) times the regular rate of pay must first be authorized by the Board of Commissioners.

The standard work week and 28-day work period discussed above are defined in the Work Week, Work Period, and Pay Period Policy.

B. Accruing Compensatory Time

Fulton County may offer time off with pay ("compensatory time") in lieu of overtime pay for overtime work as provided by applicable law to a non-exempt employee to whom the County has provided sufficient notice under the law informing the employee that compensatory time will be provided in lieu of overtime pay as allowed by law.

Compensatory time shall accrue at the rate of no less than one and one-half (1.5) hours for each hour worked in excess of the applicable maximum hours set forth above in Section II(A) or as otherwise required by applicable state and federal law. Paid time off such as sick pay, holiday pay, vacation pay and jury duty pay (where applicable) will not count toward hours worked for the purpose of determining overtime pay.

No Appointing Authority may approve or permit (i) a non-exempt employee (other than non-exempt public safety and emergency response employees, as defined by 29 U.S.C. § 207(o) and 29 C.F.R. § 553.24) to accrue more than 240 hours of compensatory time, and (ii) a non-exempt public safety or emergency response employee (as defined by 29 U.S.C. § 207(o) and 29 C.F.R. § 553.24) to accrue more than 480 of compensatory time. Upon accruing the applicable limit of 240 or 480 hours of compensatory time, Fulton County shall pay non-exempt employees overtime pay for overtime hours worked beyond the applicable 240 or 480 hours limit in accordance with this Policy.

Compensatory time in excess of one and one-half (1.5) hours for each hour worked must first be authorized by the Board of Commissioners.

III. Establishment and Implementation of Procedure

The County Manager, in consultation with the Chief Human Resources Officer and the County Attorney, is authorized to establish and modify, as needed, a procedure for implementing this policy.

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PERSONNEL PROCEDURE

SUBJECT: OVERTIME AND COMPENSATORY TIME

DATE: March 1, 2023

Number: 108-16

I. Procedure for Using Compensatory Time

Employees are encouraged to use their accrued compensatory time. An employee who accrues compensatory time will be allowed to use his or her compensatory time within a reasonable period after making a request, so long as the use does not unduly disrupt the business operations of the County. To request the use of compensatory time, an employee should submit a written request to their supervisor as far in advance as possible. There is no guarantee that the compensatory time approved will be for the specific date(s) requested by the employee. At the sole discretion of their Appointing Authority, employees may be required to take their compensatory time on specific date(s). Compensatory time taken will not be charged to any other leave category accrued by the employee, such as vacation, holiday, or sick leave.

Any leave taken by an employee will be charged against accrued compensatory leave balances, if available, before any holiday or vacation balances are charged. Hours of compensatory time used during a work week do not count towards "hours worked" for that work week for purposes of assessing whether an employee is entitled to payment of overtime or accrual of additional compensatory time.

II. Paying Out Compensatory Time

The Board of Commissioners or County Manager reserve the right at any time to pay an employee for any or all accrued compensatory time. Subject to budget availability, elected officials may pay an employee of their office for any or all accrued compensatory time.

Subject to budget availability, all other Department Heads may pay any or all accrued compensatory time as long as the amount of accrued hours to be paid is applied equally to all employees in the department at the time of payout. Requests to pay for accrued compensatory time on an individualized or group basis should be submitted to the Board of Commissioners or County Manager.

Upon separation from employment, accrued, unused compensatory time will be

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paid out to an employee either at that employee's average regular rate during the last three years of employment or that employee's final regular rate, whichever is higher.

If Fulton County in its discretion decides to pay out an employee's accrued compensatory time balance at a time other than upon termination, payments for such accrued compensatory time will be paid at the regular rate earned by that employee **at the time the employee receives such payment.**

III. Non-Exempt Employees

Prior to reaching the applicable statutory cap on compensatory time, non-exempt employees who have worked hours in excess of the applicable maximum hours as listed in the Overtime and Compensatory Time Policy may be compensated using overtime pay in lieu of accruing compensatory time at the discretion of the County Manager for departments under his/her supervision. The approval for overtime pay for other non-exempt employees who report to the County Attorney, the County Auditor, the Clerk to the Commission or any elected official shall be made by those respective Appointing Authorities. Receipt of overtime pay in any pay period does not bind the County to overtime pay in lieu of compensatory time in the future. All non-exempt pay, not required by the FLSA, is subject to budget availability. As stated in the Overtime and Compensatory Time Policy, paid time off such as sick pay, holiday pay, vacation pay, and jury duty pay (where applicable) will not count toward hours worked for the purpose of determining overtime pay.

IV. Exempt Employees

Exempt employees are expected to work as much of each workday as is necessary to fulfill their job responsibilities without extra compensation. At the sole discretion of the County Manager, exempt employees in departments under his/her supervision, with the exception of employees in fee positions, may accrue exempt compensatory time at the rate of 1 hour for 1 hour worked up to two hundred forty (240) hours. The approval for exempt compensatory time for other exempt employees who report to the County Attorney, the County Auditor, the Clerk to the Commission or any other elected officer shall be made by those respective department or agency heads.

At the sole discretion of the County Manager, exempt employees in departments under his/her supervision, with the exception of employees in fee positions, may earn additional pay at the equivalent of their regular hourly rate for each hour worked over 40 hours in a work week. The approval for other exempt employees who report to the County Attorney, the County Auditor, the Clerk to the Commission or any elected official shall be made by those respective department or agency heads. All additional pay is subject to budget availability.

Exempt employees may earn exempt compensatory time and/or additional pay, but not simultaneously. Exempt compensatory time and/or additional pay at a rate higher than provided herein may be authorized only by the Board of Commissioners. Receipt of

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exempt compensatory time or additional pay in any pay period does not bind the County to compensate exempt employees for overtime hours in the future.

V. Approvals

Department heads seeking to permit non-exempt employees to accrue compensatory time or to earn additional pay must provide written approval from the County Manager on an annual basis. Similarly, department heads seeking to permit exempt employees to receive overtime pay rather than accrue compensatory time must provide written approval from the County Manager on an annual basis.

The approval for exempt compensatory time or additional pay for exempt employees who report to the County Attorney, the County Auditor, the Clerk to the Commission or any other elected constitutional officer shall be provided in writing by those respective department or agency heads to the Department of Human Resources Management on an annual basis. Similarly, the approval for overtime pay for non-exempt employees who report to the County Attorney, the County Auditor, the Clerk to the Commission or any elected official shall be provided in writing by those respective Appointing Authorities to the Department of Human Resources Management on an annual basis.

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