



OVERTIME PAY/ FAIR LABOR STANDARDS ACT (FLSA)

PM-18-05

Section: 18-00, COMPENSATION

PURPOSE

The Compensation Service Center, Division of Human Resources, administers overtime and compensatory time pay policies in compliance with the Fair Labor Standards Act (FLSA.), and provides for management a reference manual called Leave and Pay Status Reporting Manual which sets forth all related policies covering compensation for overtime hours and compensatory policies. In addition, the Compensation Service Center is responsible for classifying all City of Memphis Government positions either exempt or non-exempt.

The FLSA is a federal law that governs the payment of minimum wage, overtime rates, compensatory time, recordkeeping of hours worked, and other criteria relating to wages and hours of work for non-exempt employees, including government employees. Section 3(s)(1)(C) of the FLSA covers all public agency employees of a State, a political subdivision of a State, or an interstate government agency.

Exempt employees neither earn compensatory time nor overtime pay and are excluded by the FLSA. from this policy.

POLICY

Overtime Compensation

Covered, non-exempt employees must be paid overtime at no less than one and one-half (1 ½) times the employee's regular rate of pay for hours worked in excess of 40 hours in a workweek. However, overtime payment principals are different for Fire Fighters and Police Officers under FLSA. Section 7(k) of the FLSA states overtime compensation for Fire Fighters is not required until the number of hours worked exceed 212 over a period of no less than 28 days. Likewise, overtime compensation for Police Officers is not required until the number of hours worked exceed 171 over a period of no less than 28 days.

Compensatory Time Off

If an agreement is made between the employer and employee prior to the performance of overtime duties, employees of state and local government agencies may receive compensatory time off (comp time) at a rate of not less than one and one-half (1 ½) hours for each overtime hour worked in lieu of cash



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payment for overtime. However, there are some limitations as to how much comp time may be accrued.

Police, Fire Fighters, emergency response personnel and employees engaged in seasonal activities may accrue up to 480 hours of comp time. However, the 480 hour accrual limit will not apply to office personnel or other civilian employees who may perform public safety activities only in emergency situations, even if they spend substantially all of their time in a particular week in such activities. Other public sector employees may accrue up to 240 hours of comp time.

Section 7(o)(5) of the FLSA provides that any employee of a public agency who has accrued compensatory time and requested use of this compensatory time, shall be permitted to use such time off within a "reasonable period" after making the request, if such use does not "unduly disrupt" the operations of the agency.

All questions pertaining to policy explanation related to overtime hours, compensatory time, and/or the Fair Labor Standards Act should be referred to the Compensation Service Center, Division of Human Resources.

DEFINITIONS

1. **Compensatory time off:** paid time off the job which is earned and accrued by an employee in lieu of immediate cash payment for employment in excess of the statutory hours for which overtime compensation is required by section 7 of the FLSA.
2. **Public Safety activities:** includes law enforcement, fire fighting or related activities.
3. **Emergency response activities:** includes dispatching of emergency vehicles and personnel, rescue work and ambulance services.
4. **Seasonal activity:** includes work during periods of significantly increased demand, which are of a regular and recurring nature.
5. **Unduly disrupt:** an unreasonable burden on the agency's ability to provide services of acceptable quality and quantity for the public during the time requested without the use of the employee's services.