



Administrative Policies
And Procedures
Tennessee Supreme Court
Administrative Office of the Courts

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S.G.L.

DTJ

Approved by: Chief Justice Sharon G. Lee and Deborah Taylor Tate, Director

Subject: Overtime Policy

- I. Authority: T.C.A. §§ 8-23-201; 16-3-803; 29 U.S.C. 201 (Fair Labor Standards Act ("FLSA")).
- II. Purpose: To establish guidelines for the authorization and payment of overtime compensation.
- III. Application: All employees of the court system, excluding elected officials and their personal staff.
- IV. Definitions:

Employees: All court system employees, excluding elected officials and their personal staff. An example of an elected official contemplated in this policy includes a judge who is popularly elected or sits for retention election.

Work Schedule: The minimum daily work schedule during the workweek is 7.5 hours Monday through Friday for a total of 37.5 hours per week.

Workweek: The workweek for payroll and compensation purposes is defined as 12:00 a.m. Sunday to 11:59 p.m. the following Saturday.

Overtime: Time worked in excess of an employee's normal workweek schedule for which extra compensation is authorized. Depending of the number of hours worked during the workweek, and the type of work performed by the employee, overtime may be in the form of: (1) cash at the employee's regular rate of pay; (2) cash at the employee's premium rate of pay of one and one-half (1.5) times the regular rate or (3) equivalent time off of work referred to herein as "compensatory time."

Exempt Status: Exempt employees are those whose primary duties are classified as executive, administrative, or professional by the FLSA. Employees performing these duties are exempt from FLSA overtime provisions.

Executive Level: Exempt employees categorized as executive level are ineligible to receive cash or compensatory overtime.

FLSA Exempt Exception Status: Exempt employees not categorized as executive status may be granted hour-for-hour compensatory time for time worked beyond their regular schedule.

Non-Exempt Status: Employees defined as non-exempt by the FLSA receive compensation for time worked beyond their regular schedule.

Personal Staff Exclusion: Employees who are under the direct supervision of an elected official. It does not include employees who are directly supervised by someone other than the elected official even though they may have been hired, appointed, or selected by the elected official.

Cash Overtime: Monetary pay earned by non-exempt employees for time worked in excess of the regular work schedule.

Compensatory Time: Time off with pay earned by an exempt, non-executive level employee or by a non-exempt employee who elects compensatory time in lieu of cash for time worked in excess of the regular work schedule. Compensatory time is accrued on a weekly basis and is not transferable to any type of leave.

- V. Policy: To ensure that all court system employees are paid correctly in accordance with statutory guidance provided in the FLSA. Management may ask employees to work overtime as business needs arise. Eligible employees who work overtime will be compensated in the appropriate manner as specified herein.
- VI. Procedures:
- a. Employees may be expected to work scheduled overtime provided that reasonable notice is given. Employees should address scheduling conflicts with overtime work with their manager or division director.
 - b. Determining exempt status for any employee in an executive, administrative, or professional position shall be determined by the administrative director or his or her designee. All other employees are non-exempt.
 - c. Non-exempt employees who are approved to work overtime must elect whether to receive cash or compensatory time. The attached overtime election form must be completed prior to receiving any overtime compensation. Employees may elect periodically to change their form of compensation. If an employee changes the method of compensation, the new method chosen will go into effect the following Sunday, unless the employee received no overtime compensation for time worked in the workweek before the approval of the request for cash overtime. In that

instance, cash overtime may be earned in the same workweek in which it was approved. At no time will the method of compensation be retroactive.

- d. Designated division directors and managers may request, authorize, and approve overtime work. All overtime must be approved in advance. Employees may not voluntarily work overtime without prior approval. Employees should complete the compensation approval form and submit it to his or her division director for approval before it is then submitted to the HR department.
- e. Employees traveling to and from meetings at which attendance is considered a work assignment on a scheduled workday will receive compensatory time or cash (depending on their exempt or non-exempt status) equal to 100% of the time traveled outside the regular workday, less the actual time required to travel from the work station to the employee's home. If overnight stay is necessary, overtime will only be received for the time actually worked over the regular workday. Employees traveling to and from meetings at which attendance is considered a work assignment on an unscheduled workday will receive compensatory time or cash (depending on their exempt or non-exempt status) equal to 100% of the time traveled. The provision shall apply to all employees who are currently eligible to receive cash or accrue compensatory time under policy or law.
- f. A non-exempt employee is paid at his or her regular hourly rate for hours actually worked in excess of their regular 37.5-hour weekly schedule up to 40.0 hours in a workweek. Employees are paid at the premium rate of one and one-half (1.5) times their regular rate for hours actually worked in excess of 40.0 in a workweek. Non-duty time spent on paid leave will be counted as compensable hours earned but will not be counted as hours actually worked. An employee must actually work 40.0 hours in the workweek before premium overtime is due. Overtime cannot be paid until the workweek is completed.
- g. When compensatory time is granted in lieu of cash, non-exempt employees who receive hour-for-hour time off will receive regular compensatory time for overtime hours worked between 37.5 and 40.0 in a workweek. Non-exempt employees who receive hour for hour time off will receive premium compensatory time for overtime hours worked in excess of 40.0 hours in a workweek at one and one-half (1.5) times the number of hours worked. Exempt employees who are not categorized as executive level may be granted hour for hour compensatory time for all hours worked in excess of their regular 37.5 hour weekly schedule. Exempt employees categorized as executive level are ineligible to receive cash or compensatory overtime.

- h. When exempt employees spend more than 20% of their time performing non-exempt work in a given workweek, their exemption for FLSA overtime provisions is lost for that workweek. When this situation occurs, affected employees must be compensated in the same manner as non-exempt employees for overtime hours worked in the workweek.
- i. Employees who are exempt are not covered by overtime rules and regulations. However, the method for determining pay reductions of an exempt employee must comply with the salary basis provisions in the FLSA, Title 29, Part 541. An exempt, leave-accruing employee who works less than a full day during a workweek shall be paid for the entire day subject to certain exceptions, without regard to the number of days or hours worked.

An exempt employee may enter a leave without pay status for a partial day if the employee:

1. Does not work during an entire workweek;
2. Is absent from work for one or more full days for personal reasons other than sickness or disability;
3. Is absent from work for one or more full days due to sickness or disability, or if reductions are made under a plan, policy, or practice of providing wage replacement benefits for these types of absences (e.g., use of sick leave);
4. Has received payment for jury or witness fees, military pay or similar fees/pay, such as workers comp or pay from a third party in lieu of the employee's state salary;
5. Has violated a safety rule and penalties are imposed as a result;
6. Receives a suspension of one or more full days imposed in good faith for violations of workplace conduct rules and/or policies and procedures;
7. Works a partial week during the first and/or last weeks of employment, and the employee is to be paid for the actual hours worked;
8. Needs to maintain one (1) day of leave pursuant to the Tennessee Department of Human Resources' ("DOHR") Sick Leave Bank Rules and Regulations concerning the annual donation requirement; and
9. Has taken unpaid leave under the Family Medical Leave Act ("FMLA") or has taken part-time extended periods of leave without pay related to the employee's intermittent FMLA approval.

If none of the above nine (9) enumerated situations are applicable, an exempt employee who does not have an accrued leave balance and who only works a portion of a workday must be paid for the full day. An employee with a leave balance cannot opt to take leave without pay.

Division directors and managers shall not approve partial day leave requests if an exempt employee has exhausted all of his or her leave balance, regardless of whether the employee provides a doctor's statement.

- j. Compensatory time may be accrued up to a maximum of two hundred and forty (240) hours. Overtime earned above 240 hours must be paid in cash. If an employee requests annual leave when compensatory leave is available, the compensatory leave must be exhausted first.
- k. A non-exempt employee may reschedule a workweek to eliminate excessive overtime payments upon approval by his or her manager or division director and notification to the HR department. Rescheduling sick leave will be allowed in all circumstances.

For example, if a non-exempt employee works 10.5 hours on Monday, 7.5 hours on Tuesday, 7.5 hours on Wednesday, 7.5 on Thursday, and takes sick leave on Friday, the employee has actually worked 33.0 hours of a 37.5-hour workweek. The 3.0 extra hours worked on Monday are applied to the leave taken later in the week to reduce the sick leave taken Friday to 4.5 hours. No overtime is paid for the workweek since the employee did not work over 37.5 hours.

Overtime Election Form

•Change <input type="checkbox"/>	•Newly Eligible <input type="checkbox"/>	•Deletion <input type="checkbox"/>
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**Completion of this form indicates that you will be compensated by the method chosen below. Employees may elect to change this method at any time. Changes in the method of compensation will be effective from this date forward. Accrual of compensatory time and cash overtime cannot be accrued in the same workweek. The workweek runs from Sunday thru Saturday. At no time will compensation methods be retroactive.*

Name: _____

Title: _____

Effective Date: _____

Method of Compensation:	<input type="checkbox"/> Compensatory Leave	<input type="checkbox"/> Cash
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Employee Signature Date _____
Division Director Signature Date

NOTE: Division director must return completed and signed form to Human Resources.