



Overtime Pay and Compensatory Time for Hourly Employees

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PURPOSE

To provide procedures for overtime pay and compensatory time in an equitable and fiscally responsible manner for hourly employees who are covered by the overtime pay provisions of the Washington Minimum Wage Act (WMWA) and the federal Fair Labor Standards Act (FLSA).

POLICY APPLICABILITY

This policy applies to all employees in the executive branch departments, offices, and divisions, including the Assessor's Office and King County Elections. This applies to all career service, provisional, temporary, probationary, and appointed hourly employees.

DEFINITIONS

"Bona Fide Executive, Administrative, or Professional Capacity" means those positions determined by the Director of the Department of Human Resources (DHR) to satisfy the applicable "salary basis" test and the "duties" test of the FLSA and the WMWA.

"Compensatory Time" means time off with pay granted in lieu of pay for work performed on an authorized overtime basis at the rate of 1.5 hours for each hour worked in excess of 40 hours in the workweek. Compensatory time is also available for work performed on an authorized straight-time overtime basis at the rate of 1.0 hours for each hour worked in excess of a regular schedule up to and including 40 hours in the workweek. The overtime threshold for law enforcement employees shall be established in accordance with 29 U.S.C. §207(k) or as determined by the applicable collective bargaining agreement.

"FLSA-Exempt Employee" for the purposes of these policies and procedures means an individual designated by the DHR Director, as being employed in a bona fide executive, administrative, or professional capacity, as defined by the FLSA and the WMWA, and who is therefore exempt from the overtime pay and minimum wage requirements of the FLSA and the WMWA.

"Hourly Employee" means an employee who is entitled to be paid for all actual hours that they are required or permitted to work at either the straight-time regular hourly rate for hours worked up to and including forty (40) in the workweek or overtime hourly rate at one and one-half times the hourly employee's regular rate of pay for each hour worked in excess of forty (40) in the workweek. The overtime threshold for law enforcement employees shall be established in accordance with 29 U.S.C. §207(k) or as determined by the applicable collective bargaining agreement.

- If the hourly employee is represented, the terms of the applicable collective bargaining agreement will govern, provided that the collective bargaining agreement is not less beneficial to the hourly employee than the minimum requirements of the FLSA and the WMWA.
- All Short-Term Temporary (STT) employees are hourly employees regardless of the FLSA classification of the position to which they are assigned.

"Overtime" means hours worked, excluding paid leave hours, in excess of 40 hours in the workweek that is paid at one and one-half times the regular hourly rate of pay. The overtime

threshold for law enforcement employees shall be established in accordance with 29 U.S.C. §207(k) or as determined by the applicable collective bargaining agreement.

"Regular Hourly Rate of Pay" means the base hourly rate plus the hourly dollar value of any nondiscretionary premium payments that must be included in the hourly rate when calculating overtime pay for over forty (40) hours of actual work (excluding paid leave hours) in the workweek (e.g., special duty pay, shift differential pay, on call pay, hazardous duty pay, etc.). The overtime threshold for law enforcement employees shall be established in accordance with 29 U.S.C. §207(k) or as determined by the applicable collective bargaining agreement.

"Regularly Scheduled Work Hours" means the usual hours in a workweek designated by the employer that the employee is expected to work, excluding meal and rest periods.

- No employee shall be required to work more than five consecutive hours without a meal period. Employees working three or more hours longer than a normal workday shall be allowed at least one 30-minute meal period prior to or during the overtime period. Meal periods must be at least 30 minutes in length and must begin no less than two hours or more than five hours from the beginning of the shift.
- Meal periods are not considered hours of work and may always be unpaid as long as employees are completely relieved from duty and receive 30 minutes of uninterrupted mealtime. It is not necessary that an employee be permitted to leave the premises if they are otherwise completely free from duties during the meal period. In such a case, payment of the meal period is not required; however, employees must be completely relieved from duty and free to spend their meal period on the premises as they please.
- Meal periods are considered hours of work when the employer requires employees to remain on duty on the premises or at a prescribed work site *and* requires the employee to act in the interest of the employer. When employees are required to remain on duty on the premises or at a prescribed work site and act in the interest of the county, the county must make every effort to provide employees with an uninterrupted meal period. If the meal period should be interrupted due to the employee's performing a task, upon completion of the task, the meal period will be continued until the employee has received 30 minutes total of mealtime. Time spent performing the task is not considered part of the meal period. The entire meal period must be paid without regard to the number of interruptions.
- Employees shall be allowed a rest period of not less than 15 minutes, on the employer's time, for each 4 hours of working time. Rest periods shall be scheduled as near as possible to the midpoint of the 4-hour period. No employee shall be required to work more than three hours without a rest period. Employees may be required to remain on the premises during rest periods. Where the nature of the work allows employees to take intermittent rest periods equivalent to 15 minutes for each four-hour period worked, scheduled rest periods are not required. Employees may not waive their right to a rest period.
- Pursuant to the specific terms of a collective bargaining agreement, rest and meal period requirements may vary or be superseded by the agreement for represented employees.

"Retaliation" means to take adverse employment action against an individual because they have engaged in statutorily protected activity.

"Straight-Time Overtime" means hours worked in excess of an hourly employee's regular schedule, up to and including 40 hours in the workweek. The overtime threshold for law enforcement employees shall be established in accordance with 29 U.S.C. §207(k) or as determined by the applicable collective bargaining agreement. These hours are paid at the regular hourly rate of pay.

"Workweek" is a fixed and regularly recurring period of 168 hours during seven consecutive twenty-four-hour periods. Unless otherwise designated in writing by the department director or designee, the workweek begins at 12:00 a.m. on Saturday and continues for the next 168 hours

through Friday. The workweek for law enforcement employees shall be established in accordance with 29 U.S.C. §207(k) or as determined by the applicable collective bargaining agreement.

POLICY

Work beyond the normal workday or workweek may be required or authorized by the appointing authority or designee where necessary to maintain or perform vital county services.

An hourly employee must obtain authorization to work beyond the normal workday or workweek, in advance of the work being performed, in accordance with departmental policies. An hourly employee is required to submit records of overtime worked in a timely fashion, usually within two business days of working the overtime hours.

Managers and supervisors will take affirmative steps to ensure that hourly employees are not allowed to work outside their regularly scheduled work hours (meal and rest periods, before or after shift, etc.) without authorization and/or compensation for the additional time worked.

Overtime

Pay for work beyond the normal workday or normal workweek shall be at the straight time hourly rate of pay until the hourly employee has actually worked forty (40) hours in the workweek. Pay for hours worked over 40 in the workweek shall be at one and one-half times the hourly employee's regular rate of pay for each hour worked. The overtime threshold for law enforcement employees shall be established in accordance with 29 U.S.C. §207(k) or as determined by the applicable collective bargaining agreement. Paid time off, such as vacation leave, sick leave, bereavement leave, etc., shall not be counted as hours worked for the purpose of determining eligibility for overtime pay or compensatory time.

Compensatory Time

An hourly employee may submit a written request in advance of working overtime to be granted compensatory time off in lieu of receiving overtime pay. Approval of such a request is at the discretion of the hourly employee's division director or designee or as otherwise determined by department policies. The approval must be based on the business needs of the county or department.

- Earning of compensatory time may not be approved for the sole purpose of earning additional paid leave unrelated to the business need of the department.
- Compensatory time may not be earned without prior approval.
- Compensatory time may only be granted pursuant to the applicable provisions of a collective bargaining agreement or for non-represented hourly employees an agreement or understanding arrived at between the supervisor and the hourly employee before the performance of the work.
- The substitution of compensatory time for overtime pay must be at the hourly employee's request and must be agreed to by the hourly employee and the employer.

Compensatory time shall be granted in lieu of overtime at the same ratio as would have been used for pay purposes; that is, one and one-half hours for each hour worked over 40 in a workweek. The overtime threshold for law enforcement employees shall be established in accordance with 29 U.S.C. §207(k) or as determined by the applicable collective bargaining agreement.

Compensatory time may not be used before it has been earned and its use has been approved. Use of compensatory time shall be requested in advance by the hourly employee in writing. Requests to use compensatory time must be approved by the supervisor in writing. An hourly employee who has requested the use of compensatory time shall be permitted to use such time within a reasonable period after making the request if the use of compensatory time does not unduly disrupt the operations of the agency.

The compensatory time balance for an hourly employee shall not exceed 80 hours at any point in time; however, department directors may establish lower limits on the maximum balance of compensatory time.

Compensatory time shall be used during the calendar year in which it is earned unless such utilization is not feasible due to the work demands of the position. If this occurs, the hourly employee may request, and the department director or designee may approve the carryover of a maximum of 40 hours of compensatory time. Any approved carryover of compensatory time must be used or paid out in the first quarter of the year.

At the written request of an hourly employee to be paid for any or all earned and unused compensatory time, the department shall promptly pay the hourly employee.

Hourly employees will be paid for all earned and unused compensatory time on the final paycheck in December except for any approved carryover. Hourly employees will be paid for all earned and unused compensatory time upon transfer to another county agency; upon transfer, hire or promotion into an FLSA-exempt position; or upon separation from employment.

Except at separation from employment, all pay for compensatory time shall be at the hourly employee's regular hourly rate of pay in effect at the time of payment.

Upon separation from employment, pay for compensatory time shall be at the hourly employee's regular hourly rate of pay in effect at the time of payment or the average regular rate received during the last three (3) years of employment, whichever is higher.

Exceptions and Discrepancies

In the event any provision of this policy conflicts with an applicable provision of a collective bargaining agreement, the latter shall prevail, unless it is less beneficial to the hourly employee than the minimum requirements of the FLSA and/or the WMWA.

When an hourly employee believes that they have not been correctly compensated, the employee must report this to their immediate supervisor or Human Resources Manager as soon as possible. Reports of improper compensation will be promptly investigated. If it is determined that improper compensation has occurred, the Human Resources Manager shall ensure proper compensation is made and will take appropriate steps to ensure future compliance with this policy.

King County does not tolerate retaliation for reporting concerns of alleged violations of this policy. Such action is misconduct in violation of this policy and may be subject to discipline, up to and including termination.

PROCEDURES

Working Additional Hours/Earning Compensatory Time

Action By: Hourly employee

Action: Obtains authorization in accordance with this policy and department policy and any applicable collective bargaining agreement prior to performing any work outside regularly scheduled work hours. Submits time sheet reflecting all hours worked, including additional hours worked outside the regularly scheduled work hours, in a timely fashion in accordance with department policy. Submits a written request to division director or designee to allow compensatory time to be granted in lieu of overtime pay prior to performing any work outside regularly scheduled work hours.

Action By: Supervisor

Action: Reviews request for an hourly employee to perform work outside regularly scheduled hours and determines whether it should be approved or denied or forwarded to the appropriate decision maker. Forwards written approval or denial to hourly employee within five (5) workdays from the date the request to perform work outside regularly scheduled hours is received. Reviews request for an hourly employee to be granted compensatory time in lieu of overtime and forwards

request with a recommendation to the division director or designee. Takes steps to ensure that hourly employees do not work outside their regularly scheduled work hours without authorization and/or compensation.

Use of Compensatory Time

Action By: Hourly Employee

Action: Submits a written request in advance to supervisor requesting use of compensatory time.

Action By: Supervisor

Action: Reviews request for use of compensatory time; approves or denies request in accordance with this policy or forwards to decision maker. Forwards written approval or denial to hourly employee.

Carryover of Compensatory Time

Action By: Hourly Employee

Action: Uses compensatory time within the calendar year. If unable to do so, submits a written request by December 1st via division director to the department director or designee to carry over up to 40 hours of compensatory time to the next calendar year. Uses any approved carryover of compensatory time by March 31 of the next year.

Action By: Division director or designee

Action: Reviews hourly employee request to carry over compensatory time; forwards request with recommendation to department director or designee. Ensures any approved carryover is used or paid by March 31 of the next year.

Action By: Department director

Action: Reviews hourly employee request to carry over compensatory time to the next calendar year; approves or denies carryover of up to 40 hours; notifies hourly employee.

Action By: Human Resources Department Director

Action: Monitoring proper application of this policy and requiring correction of conduct when actions inconsistent with this policy are discovered.

QUESTIONS

Refer questions or comments to your agency's [Human Resources Manager](#) or the Department of Human Resources.