

Overtime and Compensatory Time

Objective:	To establish policies for overtime and compensatory time for County employees.	Policy/Procedure Number:	04-02
Reference: (All applicable federal, state, and local laws)	Agreement between the County of Tompkins and Collective Bargaining Units; Fair Labor Standards Act	Effective Date:	January 12, 1985
Legislative Policy Statement:	It is the general practice of Tompkins County not to have its employees work frequent or considerable overtime. However, the County may authorize or direct an employee to work overtime when necessary in order to meet operating needs or emergency situations.	Responsible Department:	Human Resources
		Modified Date (s):	November 18, 1997; December 2, 2003; February 16, 2021
General Information:		Resolution No.:	258; 2021-31
		Next Scheduled Review:	February 2026

I. Definitions: **Compensatory Time** - Earned time recorded on an employee's pay record in lieu of overtime pay.

Fair Labor Standards Act (FLSA) - Requires all covered employers, including the County, to comply with its minimum wage and overtime compensation requirements. Public employers must compensate eligible employees for hours worked in excess of maximum allowable hours by making monetary payment or granting compensatory time.

Overtime - Time worked, excluding paid leave time, in excess of forty (40) hours per work week unless a different definition is required by law.

Work Week - A fixed and regularly recurring period of seven (7) consecutive twenty-four (24) hour periods. The County workweek begins on Sunday 12:01 a.m. through Saturday 12:00 midnight or as determined by the applicable collective bargaining agreement.

II. Policy:

A. All County positions will be categorized as defined by the Fair Labor Standards Act (FLSA) and applicable collective bargaining agreements as one of the following:

- Excluded - Not subject to overtime or compensatory time for hours worked over forty (40) hours in a single work week. This includes elected officials.
- Exempt - Not subject to overtime compensation at time and one half for hours worked over forty (40) hours in a single work week. Instead, exempt employees may receive compensatory time in lieu of overtime pay.
- Non-exempt - Hourly employees that must be compensated for all overtime at time and one half of the employee's regular pay rate for all hours worked over forty (40) hours in a single work week.

- Law Enforcement - FLSA provides a partial exemption to employees whose primary duty is law enforcement or fire protection. Overtime thresholds 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.

B. County employees eligible for overtime will be compensated for all hours worked over forty (40) hours in a single work week according to the employee's respective collective bargaining agreement and the Fair Labor Standards Act by one of the following methods:

- By payment at one and one-half (1½) times the employee's current hourly rate;
- By compensatory time at a rate of one and one half (1½) hours off for each hour of overtime worked and not paid.

Exception: Road Patrol and Corrections Officers will be compensated for all hours worked over 8 hours in a 24-hour workday, according to the respective collective bargaining agreements.

C. Department Heads or designees will take affirmative steps to ensure that employees are not allowed to work outside their regularly scheduled work hours (meal and rest periods, before or after shift, etc.) without authorization.

D. Overtime shall be allocated as evenly as possible among all employees qualified to do the work. Preference may be given to those employees who wish to volunteer for the work.

E. Employees may be ordered to work overtime when it is required to maintain minimum staffing levels in accordance with the employee's respective collective bargaining agreement..

F. Earning of overtime or compensatory time may not be approved for the sole purpose of earning additional paid leave unrelated to the business need of the department.

G. Compensatory time cannot be converted back to pay except as terminal pay per the terms of applicable collective bargaining agreements.

H. Department Heads or designee reserve the right to change an employee's schedule to prevent working over forty (40) hours in a work week to limit overtime or compensatory time, so long as the change of schedule is done with prior notification in accordance with the employee's respective collective bargaining agreement.

I. This policy does not constitute an express or implied contract. It is a general statement of County policy that cannot form the basis of a private right of action.

III. Procedure:

A. Overtime

1. Except in emergencies or as deemed appropriate by a Department Head or designee to maintain or perform vital County services, no employee shall work overtime.

2. When a Department Head or designee requires or permits employees to work more than the standard number of hours in the work week, the employee's Fair Labor Standards Act status must be taken into account.
3. Non-exempt employees working a standard work week of forty (40) hours will be paid for all hours worked over forty (40) at one and one-half times their regular rate of pay. Non-exempt employees working a standard work week of less than forty (40) hours will earn compensatory time at their regular rate of pay for all hours worked over their regularly scheduled hours up to forty (40) hours.
4. When calculating overtime time worked over forty (40) hours in a given work week, scheduled, paid holidays (as outlined in the respective collective bargaining agreements) are included in the calculations. No other paid leave, unpaid leave or fringe is included in the calculation of overtime. Exceptions to this include shift workers at the Airport and Department of Emergency Response as noted in the White Collar collective bargaining agreement.
5. When calculating overtime time worked over forty (40) hours in a given work week, no premium time (time already paid at time and one half) will be included in the computation of overtime.

B. Compensatory Time

1. Exempt employees will receive compensatory time off at the same ratio as would have been used for pay purposes for all hours worked over their standard work week.
2. A signed agreement (*Appendix A*) may be made between a non-exempt employee and their Department Head for the time worked over forty (40) hours in a work week to be accrued as compensatory time rather than overtime pay, equal in value to one- and one-half (1 ½) times the employee's regular rate of pay. This agreement may be revoked by the employee at any time by completing the *Revocation of Compensatory Time Agreement (Appendix B)* form.
3. Compensatory time shall not accumulate in excess of three (3) weeks of regularly scheduled work week hours, with the exception of employees holding the title of Emergency Services Dispatcher and Senior Emergency Services Dispatcher, who may accrue compensatory time off up to a maximum of the equivalent of four (4) weeks of regularly scheduled work week hours.
4. Department Heads shall establish procedures for timely usage of compensatory time accrued, unless otherwise stated in any applicable Collective Bargaining Agreement. After each payroll period, the Payroll Department tracks and shares compensatory time accruals with departmental payroll managers. It is the responsibility of the Department Head or designee to ensure that no employee exceeds the compensatory time accrual limit.
5. An employee who changes from one employment type to another shall retain any accumulated compensatory time and shall be eligible to use and/or accrue compensatory time in accordance with their current employment type. An employee who changes status from a non-exempt

employee to an exempt employee or who transfers from one County department to another shall be paid for any accumulated compensatory time at the current hourly rate in effect at the time of the transfer or vacating of the non-exempt position.

6. When an employee covered by a collective bargaining agreement is promoted to a management or confidential position in a different department, it is the responsibility of the two (2) Department Heads to discuss and reach agreement on the use or payout of the compensatory-time balance.
7. Compensatory time off must be approved in advance by an employee's Department Head or a designee following departmental time off request procedures.
8. Compensatory time may not be used before it has been accrued and its use has been approved.
9. Compensatory time off will be paid out as terminal pay according to the Fair Labor Standards Act (FLSA) and the employee's respective collective bargaining agreement.
10. Management and Confidential staff whose titles are FLSA exempt are not paid out for compensatory time off. Management and Confidential staff whose titles are FLSA non-exempt must be paid out for compensatory time. Exceptions to this can only be made in accordance with FLSA and with permission of the County Administrator and Commissioner of Human Resources.

C. Responsibilities

1. Employees are responsible for:
 - a. Requesting authorization to work beyond the normal workday or workweek in accordance with this policy and departmental policies and any applicable collective bargaining agreements.
 - b. Submitting accurate time sheets reflecting all hours worked, including those beyond the normal workday or work week, in a timely manner.
 - c. Requesting authorization in advance to earn or use compensatory time in conformance with this policy and departmental procedures which implement this policy.
2. Department Heads or designees are responsible for:
 - a. Ensuring that employees are paid for all hours worked or are granted compensatory time in accordance with this policy.
 - b. Ensuring that hourly employees do not work outside their regularly scheduled work hours without authorization and/or compensation for the additional time worked.
 - c. Approving or denying employee requests to work overtime to ensure compliance with this policy.
 - d. Approving or denying employee requests for earning or using compensatory time to ensure compliance with this policy.

- e. Promptly investigating and resolving the report of improper compensation and ensuring proper payment to employees if it is determined that improper compensation has occurred.
 - f. Ensuring appropriate steps are taken to ensure future compliance should improper compensation occur.
3. Payroll Coordinator is responsible for:
- a. Ensuring that employees are paid correctly in accordance with this policy.
 - b. Ensuring that compensatory time is paid when an employee separates from employment at the employee's regular rate of pay in effect at the time of payment, and in accordance with FLSA and applicable collective bargaining agreements,.

Appendix A



Tompkins County Department of Human Resources

125 East Court Street, Ithaca, NY 14850 | P: (607) 274-5526 | F: (607) 274-5401 | www.TompkinsCountyNY.gov
Inclusion through Diversity

Agreement to Accept Compensatory Time Off In Lieu Of Overtime Pay

In accordance with the provisions of the Fair Labor Standards Act (FLSA) and *Tompkins County Administrative Policy 04-02: Overtime and Compensatory Time Off*, non-exempt¹ employees are allowed, with the approval of their Department Head, to accrue compensatory time off instead of receiving payment for overtime hours worked. Prior to the first time an employee earns compensatory time, this agreement must be completed.

As a non-exempt employee, by signing this agreement, I agree to the following terms:

I freely and voluntarily agree to accept compensatory time off in lieu of overtime pay for overtime hours worked under the FLSA. I understand that I will accrue compensatory time at the rate of one and one-half hours for each overtime hour worked during a workweek. I understand that this compensatory time used will not be counted as time worked for purposes of computing overtime or additional compensatory time.

I further understand that compensatory time may be accrued up to a maximum of three (3) weeks² of regularly scheduled work week hours. Compensatory Time must be used or paid in accordance with Tompkins County policies, Collective Bargaining Agreements, New York State and Federal labor laws.

I understand that it is the responsibility of both myself and my department to monitor and maintain records of my earned and used compensatory time.

Employee:

Print Name: Department:
Signature: Date:

Department Head:

Print Name: Department:
Department Head Signature: Date:

¹For non-exempt employees subject to a Collective Bargaining Agreement (CBA), the agreement terms may differ. Please refer to the applicable contract for further information. The FLSA provides minimum standards that may be exceeded but cannot be waived or reduced. Thus, where the CBA terms exceed those of the FLSA or Tompkins County policy, the CBA terms should be followed.

²The exception is that the maximum hours that may be accrued for Emergency Services Dispatcher and Senior Emergency Services Dispatcher is equivalent of four (4) weeks of regularly scheduled work week hours.

Appendix B



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Revocation of Compensatory Time Agreement

In accordance with the provisions of the Fair Labor Standards Act (FLSA) and *Tompkins County Administrative Policy 04-02: Overtime and Compensatory Time Off*, non-exempt employees are allowed, with the approval of their Department Head, to accrue compensatory time off instead of receiving payment for overtime hours worked. Employees may revoke the initial agreement at any time by completion of this form.

Employee Revocation:

I hereby revoke my agreement to accept compensatory time off in lieu of overtime pay for overtime hours worked under the FLSA. I understand that I will no longer accrue compensatory time in lieu of overtime; rather, I will receive overtime pay for all hours worked over forty (40) hours in a work week.

I understand that this will apply to the pay period after this is received by my Department Head.

Employee:

Print Name:	<input type="text"/>	Department:	<input type="text"/>
Signature:	<input type="text"/>	Date:	<input type="text"/>

Department Head Revocation:

I hereby acknowledge the employee's wishes to revoke the agreement to provide compensatory time off in lieu of overtime pay for overtime hours worked under the FLSA.

Department Head/Supervisor:

Print Name:	<input type="text"/>	Department:	<input type="text"/>
Department Head/Supervisor Signature:	<input type="text"/>	Date:	<input type="text"/>