

MADISON COUNTY, VIRGINIA PERSONNEL POLICIES MANUAL

OVERTIME AND COMPENSATORY PAY

POLICY NO.	4.13	EFFECTIVE:	01/02/2024
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Non-exempt employees will be provided overtime compensation as described in this policy. Overtime hours shall not be worked unless the Department Administrator has given prior approval. The County may provide compensatory time ("comp time") off in lieu of monetary compensation for overtime work.

Comp time received by an employee in lieu of cash shall be awarded at a rate of 1.5 hours of comp time for each hour worked in excess of 40 hours in one work week.

Non-exempt law enforcement employees shall receive overtime compensation only when the number of hours worked exceeds 86 in the applicable 14-day work period. Employees holding these law enforcement positions shall receive compensation for all hours worked up to 86 and leave time may not be substituted. In computing overtime wages, only actual hours actually worked will be counted.

Hours worked on holidays. Nonexempt employees who work on a holiday, if they do not receive another day off for the holiday, will receive full pay for the day or hours worked, but will not receive overtime pay unless hours actually worked in the applicable work period exceeds 40 (or, for law enforcement officers, unless the hours worked in the applicable 28-day work period exceed 171).

Individual work hours shall be altered to avoid exceeding overtime limits during a work week.

Any employee working overtime which is not approved in advance, failing to work overtime or outside their scheduled shift when requested may be disciplined, up to and including discharge.

A. Policy

1. It is the policy of the County to adopt and implement the provisions of the Fair Labor Standards Act (FLSA), as amended, as the fundamental wage and hour policy of the County. Further, it is the policy of the County that any overtime work necessary for the continued effective operation of the County shall be managed in the most efficient and economical manner possible. The County reserves the right to compensate employees in the form of compensatory time in lieu of cash payment, in accordance with FLSA standards.

2. Authorization for Overtime

- i. Overtime work shall be authorized to cover emergencies, inclement weather conditions and unusual working requirements, and may be authorized only by the employees' Department head prior to such work being performed.
- ii. Non-exempt employees who have been granted permission to accrue compensatory time, may accrue up to 240 hours.
- iii. Non-exempt personnel performing public safety activities, emergency response activities, and seasonal activities may accrue up to 480 hours.
- iv. Once an employee has reached the above-referenced limits, he shall receive monetary compensation for any overtime work until his accumulated comp-time balance falls below the applicable limit.
- v. Any employee who has accrued comp time shall be permitted to use the time within a reasonable period after making a request, if use of the comp time will not unduly disrupt the operations of the department in which he is employed.
- vi. Comp time shall be used within one year of its accrual, or an employee shall be paid for it. At no time shall any employee be allowed to accumulate comp time in excess of the limits specified provided above.
- vii. Employees who are engaged in "public safety," "emergency response," or "seasonal" activities shall not be required to use accumulated comp time within 1 year of accrual but shall be allowed to utilize such time within a reasonable time after accrual, not to exceed 2 years. If such time has not been used within 2 years of accrual, the employee shall be paid for it.
- viii. Department heads and Constitutional Officers are responsible for scheduling compensatory leave time so that it will be used within the applicable 1-year or 2-year period or assuring that adequate funds are available within their budgets for payment of the time at the end of the applicable period. The County Administrator shall report the balance of compensatory leave time, if any, for every County employee during the budget process.

3. Regular rate of pay. For purposes of the overtime pay requirements of the FLSA, an employee's "regular rate of pay" shall be calculated by the County Administrator.

4. Charging leave accounts. When an employee is absent while on paid leave status, the hours of such leave shall always be charged first to any balance of accumulated comp time. Thereafter, leave time shall be charged to

accumulated balances in the following order of priority: 1st) Accrued holiday leave, 2nd) Accrued annual leave.

5. Exempt employees are ineligible for overtime pay; however, they may receive compensatory time, subject to the following conditions:
 - i. A supervisor (or the County Administrator, if the employee is a Department head) may choose to grant compensatory time off to exempt employees who are required to work more than 40 hours per week for special projects or during weekends or any normally scheduled time off. This shall not be construed or interpreted to mean that exempt employees have a right to compensatory time. Compensatory time is discretionary and must be requested based on these criteria.
 - ii. The work involved must be required by the supervisor or County Administrator, or be related to special assignments or projects outside the normal day-to-day activities of running the department.
 - iii. Compensatory time will be granted on an hour-for-hour basis.
 - iv. The exempt employee may not accumulate more than 40 hours of comp time.
 - v. The comp time must be used within a reasonable time following its authorization, but within one month of earning the time off.
6. It is the responsibility of each Department head to determine that overtime pay is administered in the best interest of the County. Department heads shall ensure that, whenever possible, overtime assignments are distributed as equitably as practical to all employees qualified to perform the required work. In addition, it is equally important for the Department head to eliminate unauthorized overtime. Failure by a Department head to eliminate unauthorized overtime will result in disciplinary action, up to and including dismissal.
7. No employee shall start work before the authorized starting time, work through the meal period or work past the authorized ending time without prior authorization from the County Administrator or Department head.
8. Failure by an employee to work scheduled overtime or overtime worked without prior authorization from the County Administrator may result in disciplinary action, up to and including dismissal.

B. Categories of Jobs

1. Under the FLSA, there are two (2) basic categories of jobs:

1. Exempt (E) - Those employees not covered by the overtime provisions of the FLSA; or,
2. Non-exempt (N) - Those employees covered by the overtime provisions of the FLSA.

2. FLSA requirements apply to positions and employees not to classes. The County's class designations serve as a general guide in determining whether individual positions are exempt or non-exempt from the overtime provisions of the FLSA. All County positions, under the direction of the County Administrator, shall be identified as follows:

1. E - Exempt; or,
2. N - Non-exempt.

3. In determining which positions shall be exempted from the provisions of FLSA, the guidelines established by the FLSA shall be followed.
4. For all purposes required herein, the County Administrator shall cause a list of FLSA designations to be created and maintained. Said list shall note the exempt/non-exempt status by job title and may be amended from time to time as required.

C. Record Keeping

1. Each department must keep a daily and weekly time and attendance record of hours worked, sick leave, annual leave, holidays, leave without pay, and other categories of leave and overtime hours for each work period. Records must be submitted to the County Administrator's Office at the end of each pay period. All employees' time cards, time and attendance records, leave slips, on-call records, overtime records and payroll records shall be kept for a minimum of five years.

D. Questions on Applicability

1. All questions about the application of this policy or the FLSA should be directed to the County Administrator. Additionally, copies of all policies, practices or procedures issued by a Department head, as it relates to any provisions of this policy, must be approved by the County Administrator prior to implementation.