



## **PERSONNEL POLICY**

### **SUBJECT: OVERTIME AND COMPENSATORY TIME**

DATE: January 1, 2017

Number: 108-16

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#### **I. Statement of the Policy**

It is the policy of Fulton County to properly compensate employees for all time worked, including payment of overtime and accrual of compensatory time, as allowed by and in accordance with applicable law.

#### **II. Applicability**

This policy and accompanying procedure apply to all employees who are “non-exempt” as defined in the Fair Labor Standards Act (“FLSA”) and may apply to exempt employees in certain circumstances as set forth herein.

##### **A. Overtime Pay**

When operating requirements or other needs cannot be met during regular working hours, employees may be scheduled to work overtime. Non-exempt employees will be paid one and one-half (1.5) times their regular rate of pay for all hours worked in excess of the applicable maximum hours as listed below and as otherwise required by applicable state and federal law, unless the employee receives compensatory time for overtime work as set forth in this policy:

- 40 hours in one standard workweek for all non-exempt employees except those engaged in law enforcement or fire protection activities (as defined in 29 U.S.C. § 207(k));
- 212 hours in one 28-day work period for non-exempt fire protection employees (as defined in 29 U.S.C. §207(k)); or
- 171 hours in one 28-day work period for non-exempt law enforcement personnel (as defined in 29 U.S.C. §207(k)).

These policies do not create a contract of employment. Employment for non-classified employees remains “at will”.

Paid time off such as sick pay, holiday pay, vacation pay, and jury duty pay (where applicable) will not count toward hours worked for the purpose of determining overtime pay.

All overtime work must be authorized in advance by the employee's supervisor. **Employees will be compensated for all time worked.** However, working overtime without prior authorization may result in disciplinary action.

The standard work week and 28-day work period discussed above are defined in the Work Week, Work Period, and Pay Period Policy.

## **B. Accruing Compensatory Time**

Fulton County may offer time off with pay ("compensatory time") in lieu of overtime pay for overtime work as provided by applicable law to a non-exempt employee to whom the County has provided sufficient notice under the law informing the employee that compensatory time will be provided in lieu of overtime pay as allowed by law.

Compensatory time shall accrue at the rate of one and one-half (1.5) hours for each hour worked in excess of the applicable maximum hours set forth above in Section II(A) or as otherwise required by applicable state and federal law. Paid time off such as sick pay, holiday pay, vacation pay and jury duty pay (where applicable) will not count toward hours worked for the purpose of determining overtime pay.

No Appointing Authority may approve or permit (i) a non-exempt employee (other than non-exempt public safety and emergency response employees, as defined by 29 U.S.C. § 207(o) and 29 C.F.R. § 553.24) to accrue more than 240 hours of compensatory time, and (ii) a non-exempt public safety or emergency response employee (as defined by 29 U.S.C. § 207(o) and 29 C.F.R. § 553.24) to accrue more than 480 of compensatory time. Upon accruing the applicable limit of 240 or 480 hours of compensatory time, Fulton County shall pay non-exempt employees overtime pay for overtime hours worked beyond the applicable 240 or 480 hours limit in accordance with this Policy.

## **III. Establishment and Implementation of Procedure**

The County Manager, in consultation with the Chief Human Resources Officer and the County Attorney, is authorized to establish and modify, as needed, a procedure for implementing this policy.



## **PERSONNEL PROCEDURE**

### **SUBJECT: OVERTIME AND COMPENSATORY TIME**

DATE: April 1, 2018

Number: 108-16

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#### **I. Procedure for Using Compensatory Time**

Non-exempt employees are encouraged to use their accrued compensatory time. A non-exempt employee who accrues compensatory time will be allowed to use his or her compensatory time within a reasonable period after making a request, so long as the use does not unduly disrupt the business operations of the County. To request the use of compensatory time, an employee should submit a written request to their supervisor as far in advance as possible. There is no guarantee that the compensatory time approved will be for the specific date(s) requested by the employee. Fulton County, at its sole discretion, may require employees to take their compensatory time on date(s) selected by the County. Compensatory time taken will not be charged to any other leave category accrued by the employee, such as vacation, personal time, or sick time.

Any leave taken by an employee will be charged against accrued compensatory leave balances, if available, before any holiday or vacation balances are charged. Hours of compensatory time used during a work week do not count towards "hours worked" for that work week for purposes of assessing whether an employee is entitled to payment of overtime or accrual of additional compensatory time.

The County reserves the right at any time to pay an employee in cash for any or all accrued compensatory time and/or to require the employee to use accumulated compensatory time.

#### **II. Paying out Compensatory Time**

Upon separation from employment, accrued, unused compensatory time will be paid out to an employee either at that employee's average regular rate during the last three years of employment or that employee's final regular rate, whichever is higher.

If Fulton County in its discretion decides to cash out an employee's accrued compensatory time balance at a time other than upon termination, payments for such accrued compensatory time will be paid at the regular rate earned by that employee at

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the time the employee receives such payment.

### **III. Exempt Employees**

Exempt employees are expected to work as much of each workday as is necessary to fulfill their job responsibilities. Exempt employees are not eligible for overtime pay. At the sole discretion of Fulton County, exempt employees, with the exception of employees in fee positions, may be offered compensatory time in certain circumstances, upon approval from the County Manager for departments under his direct supervision. The approval for compensatory time for other exempt employees who report to the County Attorney, the County Auditor or any other elected constitutional officer shall be made by those respective department or agency heads. If such compensatory time is offered, exempt employees will be allowed to use the compensatory time at a time convenient for Fulton County. Exempt employees will receive payment for accrued unused compensatory time at their regular rate of pay upon separation from employment with Fulton County.