



DEPARTMENT OF THE ARMY
UNITED STATES ARMY TRAINING CENTER AND FORT JACKSON
2400 JACKSON BOULEVARD
FORT JACKSON, SC 29207

ATZJ-CG (100)

14 8 JUN 2021

MEMORANDUM FOR

Commanders, All Units Reporting Directly to This Headquarters
Commander, Fort Jackson Partners in Excellence
Directors and Chiefs, Staff Offices, This Headquarters

SUBJECT: Fort Jackson Policy Memorandum #10 – Compensation for Civilian Overtime Under Federal Law Including the Fair Labor Standards Act

1. References.

a. The Fair Labor Standards Act (FLSA) of 1938, as amended, 29 United States Code (USC) Section 201, *et seq.*

b. Title 5, USC, Subpart D – Pay and Allowances, Chapter 55, Subchapter V – Premium Pay.

c. Title 5, Code of Federal Regulations (CFR), Chapter I, Subchapter B, part 551 – Pay Administration under the FLSA.

d. Title 5, CFR, Chapter I, Subchapter B, part 550 – Pay Administration, Subpart A – Premium Pay.

e. Collective Bargaining Agreement (CBA), National Federation of Federal Employees (NFFE), 3 March 2014.

f. CBA, Local, 1909, American Federation of Government Employees (AFGE), 30 June 1987.

2. Purpose. To express my commitment to ensuring that Fort Jackson leaders are aware of, and in compliance with, civilian overtime entitlements under the FLSA and other applicable federal statutes and regulations. **This Policy is general in nature and is not intended to cover every aspect of overtime compensation.**

3. Policy:

a. As leaders, you must ensure subordinate managers and supervisors are aware of all statutes, regulations, policies, and guidelines governing the supervision of civilian employees to include overtime provisions. Additionally, for those managers and

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supervisors of Bargaining Unit Employees (BUEs), the respective CBAs include overtime provisions.

b. The general rule is that employees must be paid for hours worked in excess of their scheduled hours when that work is officially ordered and/or approved.

c. Compensatory Time as Payment for Overtime.

(1) Compensatory time off is merely an alternative form of payment for overtime work.

(2) Management may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any employee for the purpose of interfering with such employee's rights to request or not to request compensatory time off in lieu of payment for overtime hours.

d. Exempt vs. Non-Exempt Employees.

(1) While the designation of an employee as FLSA exempt or non-exempt ultimately relies upon the duties actually performed by the employee, FLSA classification decisions made by the Civilian Personnel Advisory Center (CPAC) are based on the duties and responsibilities reflected in the employee's position description (PD).

(2) Management must ensure that PDs accurately reflect assigned duties and responsibilities, clearly defining such things as the amount of discretion and independent judgment required for decision making. Changes to major duties should immediately be captured by coordinating with your respective unit civilian human resource liaison and CPAC to update the employee's PD.

(3) When federal employees are classified as non-exempt, overtime compensation is covered by the provisions of the FLSA. For federal employees classified as exempt, overtime compensation is covered by the applicable statutory provisions in Title 5 of the USC.

e. "Suffered or Permitted" Overtime

(1) "Suffered or permitted" overtime is any work performed by a non-exempt employee for the benefit of the agency, whether requested or not, provided the employee's supervisor knows or has reason to believe that the work is being performed and has an opportunity to prevent the work from being performed. In other words, "suffered or permitted" overtime is work that was neither ordered nor approved in

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advance by management, but that management was aware the employee was performing and failed to act within a reasonable time to stop the employee from performing the work.

(2) A non-exempt employee who performs “suffered or permitted” overtime work is still entitled to compensation.

f. All federal employees must be compensated for overtime work performed. Certain overtime entitlements are different, however, depending upon whether federal employees are classified under the FLSA as non-exempt versus exempt. Generally, the differences can be summarized as follows:

(1) Non-exempt federal employees:

(a) Must be compensated for all hours of work performed that are officially ordered or approved, or are “suffered and permitted,” by management.

(b) Must be paid for all hours of overtime worked at a rate equal to one and a half times the employee’s regular hourly rate of pay **unless they request compensatory time in lieu of monetary payment.**

(2) Exempt federal employees:

(a) Must be compensated for all overtime hours worked that are officially either ordered or approved by management.

(b) Whose basic pay does not exceed GS-10, step one, must be paid the overtime hourly rate of pay equal to one and one-half times the employee’s hourly rate of basic pay. However, management may grant compensatory time in lieu of monetary payment at the request of the employee.

(c) Whose basic pay exceeds GS-10, step 10, are directed to be paid for overtime with compensatory time in lieu of monetary payment.

4. This policy memorandum is effective until superseded or rescinded.



PATRICK R. MICHAELIS
Brigadier General, U.S. Army
Commanding