

COMPENSATORY TIME OFF FOR TRAVEL

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053101. General. Section 202(b) of the Federal Workforce Flexibility Act (Public Law 108-411, October 30, 2004) amended subchapter V of Chapter 55 of title 5 U.S.C. By adding a new section 5550b, which establishes a new form of compensatory time off that may be earned by an employee in a travel status (when officially authorized for work purposes) away from the employee's official duty station when such time is not otherwise compensable. This compensatory time off provision applies to an "employee," as defined in 5 U.S.C. 5541(2), who is employed in an "Executive agency," as defined in 5 U.S.C. 105, without regard to whether the employee is exempt from or covered by the overtime pay provisions of the Fair Labor Standards Act of 1938, as amended. The definition includes employees in SL and ST positions, but not members of the SES. Availability pay recipients may not earn compensatory time off for travel during unscheduled duty hours because the employees are entitled to availability pay for those hours. However, if an employee who receives availability pay is required to travel on a non-workday or on a regular workday (during hours that exceed the employee's basic 8-hour workday), and the travel does not meet one of the four criteria in 5 U.S.C. 5542(b)(2)(B) and 5 C.F.R. 550.112(g)(2), then the travel time is not compensable as overtime hours of work for regular overtime or availability pay. Thus, the employee may earn compensatory time off for such travel, subject to the exclusions specified in 5 C.F.R. 550.1404(b)(2) and (b)(3) and the requirements in 5 C.F.R. 550.1404(c) and (d).

053102. Creditable Travel Time. Creditable travel time is time in a travel status that is not otherwise compensable hours of work under other legal authority. This includes only the time an employee actually spends traveling between the official duty station and a temporary duty station, or between two temporary duty stations, and the usual waiting time that precedes or interrupts such travel (this excludes any extended or unusual waiting time between actual period of travel during which the employee is free to rest, sleep, or otherwise use the time for his or her own purposes.) However, the agency must deduct from such travel hours the time the employee would have spent in normal home-to-work or work-to-home commuting. Time spent in traveling from the worksite after regular working hours (i.e., after the end of the employee's workday) to the transportation terminal is creditable as time in a travel status, and no commuting time offset applies. Once the employee arrives at a temporary duty station, he or she is not considered to be in a travel status just because he or she is away from the official duty station. In other words, the time spent at a temporary duty station between arrival and departure cannot be credited as time in a travel status.

053103. Crediting Compensatory Time Off. Within 5 workdays after returning to the official duty station, the employee must submit his or her travel itinerary, or any other documentation acceptable to the employee's supervisor, in support of a request for credit for compensatory

time off for travel. Upon receipt of a proper and complete request from the employee, the agency must credit the employee with compensatory time off for creditable time in a travel status. The agency may authorize credit in increments of one-tenth of an hour (6 minutes) or one-quarter of an hour (15 minutes). There is no limit on the amount of compensatory time off for travel an employee may earn. Agencies must track and manage compensatory time granted for time in a travel status separately from other forms of compensatory time off.

053104. Usage of Accrued Compensatory Time Off. An employee must request permission from his or her supervisor to schedule the use of his or her accrued compensatory time off in accordance with agency-established policies and procedures. Compensatory time off may be used when the employee is granted time off from his or her scheduled tour of duty established for leave purposes. An employee must use earned compensatory time off in increments of one-tenth of an hour (6 minutes) or one-quarter of an hour (15 minutes).

053105. Forfeiture of Unused Compensatory Time Off

A. Except as noted in chapter 5, section 053105.B an employee must use accrued compensatory time off by the end of the 26th pay period after the pay period during which it was credited. If an employee fails to use the compensatory time off within 26 pay periods after it was credited, then the compensatory time off is forfeited. When an employee voluntarily transfers to another agency or separates from Federal service, any unused compensatory time off is forfeited. Agency means an Executive agency as defined in 5 U.S.C. 105 (e.g., Department of Defense).

B. If the employee with unused compensatory time for travel separates from Federal service or is placed in a leave without pay status in the following circumstances and later returns to service with the same (or successor) agency, then the employee must use all of the compensatory time off by the end of the 26th pay period following the pay period in which the employee returns to duty; otherwise the compensatory time off is forfeited:

1. The employee separates or is placed in a leave without pay status to perform service in the uniformed services (as defined in 38 U.S.C. 4303 and 5 C.F.R. 353.102) and later returns to service through the exercise of a reemployment right provided by law, Executive order, or regulation; or

2. The employee separates or is placed in a leave without pay status because of an on-the-job injury with entitlement to injury compensation under 5 U.S.C., chapters 81 and later recovers sufficiently to return to work.

053106. Prohibition Against Payment for Unused Compensatory Time. As provided by 5 U.S.C. 5550b(b), an individual may not receive payment under any circumstances for any unused compensatory time off he or she earned under 5 C.F.R., part 550, subpart N. This prohibition against payment applies to surviving beneficiaries of deceased civilian employees.

053107. Inapplicability of Premium Pay and Aggregate Pay Caps. Accrued compensatory time off under 5 C.F.R., part 550, subpart N is not considered in applying the premium pay limitations established under 5 U.S.C 5547 and 5 C.F.R. 550.105 through 550.107 or the aggregate limitation of pay established under 5 U.S.C. 5307 and 5 C.F.R., part 530, subpart B.