

UNITED STATES DEPARTMENT OF AGRICULTURE  
FOOD SAFETY AND INSPECTION SERVICE  
WASHINGTON, DC

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# FSIS NOTICE

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18-19

6/10/19

## COMPENSATORY TIME OFF FOR RELIGIOUS OBSERVANCES

### I. PURPOSE

This notice provides instructions to FSIS employees related to the amended regulations regarding compensatory time off for religious observances. The instructions in this notice supersede the instructions found in [FSIS Directive 4630.2, Leave](#).

### II. BACKGROUND

A. The U.S. Office of Personnel Management (OPM) issued final regulations titled, *Compensatory Time Off for Religious Observances and Other Miscellaneous Changes*, effective May 29, 2019 ([84 FR 17931](#)). The regulations [5 CFR Subpart J, Compensatory Time Off for Religious Observances](#) clarify employee coverage, establish a specific timeline during which employees can earn and use religious compensatory time off, define employee and supervisor responsibilities, and identify requirements for accumulating and documenting religious compensatory time off.

B. As set out in 5 CFR 550.1003, *Definitions*, religious compensatory time off means compensatory time off, as authorized by 5 U.S.C. 5550a, under which an employee whose personal religious beliefs require the abstention from work during certain periods of time may elect to perform overtime work to make up for time the employee takes off to meet those personal religious requirements. Those requirements need not be officially mandated by a religious organization to which the employee belongs. It is sufficient that the employee's personal religious beliefs cause the employee to feel an obligation that he or she should be absent from work for a religious purpose. An employee approved to perform overtime work under this subpart will be granted an equal amount of compensatory time off from his or her scheduled tour of duty (in lieu of overtime pay or other pay otherwise payable) to meet his or her personal religious obligations.

C. For the purposes of this notice, an employee is anyone who has a scheduled tour of duty, so this includes employees in the General Schedule (GS), Federal Wage System (FWS), Senior Executive Service (SES), and those in senior level (SL), and scientific or professional (ST) positions. It does not include employees with intermittent tours of duty.

D. FSIS encourages supervisors to be as liberal and accommodating as mission requirements permit in adjusting an employee's schedule to allow for religious observances. An employee can:

1. Request any type of paid leave (except for sick leave) to cover the absence;
2. Use credit hours earned under a Maxiflex schedule; or
3. Work in excess of his or her normal work schedule to earn religious compensatory time for his or her religious observance. The excess time can be worked either before or after the time off.

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**DISTRIBUTION:** Electronic; All  
Field Employees

**NOTICE EXPIRES:** 6/1/20

**OPI:** OPPD

E. The hours an employee works in excess of his or her normal work schedule to earn religious compensatory time do not establish an entitlement to premium pay, and they are not considered in applying bi-weekly or annual premium pay limitations (see 5 CFR 550.1009).

### **III. EMPLOYEES INSTRUCTIONS FOR WORK IN EXCESS OF NORMAL WORK SCHEDULE TO EARN RELIGIOUS COMPESATORY TIME**

A. As set out in 5 CFR 550.1004, an employee is required to provide his or her supervisor with a request for religious compensatory time off in advance of the religious observance by providing in writing:

**NOTE:** An employee may make an initial request orally and later follow it up in writing to his or her supervisor.

1. The name or description of the religious observance that is the basis of the employee's request to be absent from work to meet the employee's personal religious requirements;
2. The dates and times the employee plans to be absent to participate in the religious observances; and
3. The dates and times the employee plans to perform overtime work to earn religious compensatory time off to make up for the absence.

B. If an adjustment to the dates and times of planned work in excess of the normal work schedule is required due to unforeseen circumstances, the employee is to submit for approval a revised schedule to reflect those changes.

C. Employees who work in excess of the normal work schedule are to record the hours in WebTA under code TC 32 –*comp time earned religious*. When employees use the religious compensatory time, they are to record that in WebTA under code TC 60 – *comp time used religious*.

### **IV. SUPERVISORY INSTURCTIONS FOR AN EMPLOYEE'S WORK IN EXCESS OF NORMAL WORK SCHEDULE TO EARN RELIGIOUS COMPENSATORY TIME**

A. As set out in 5 CFR 550.1005, supervisors are to maintain a record of employee's request to work in excess of her or his normal work schedule to earn religious compensatory time.

B. If a supervisor denies a request for an employee to work in excess of the normal work schedule to earn religious compensatory time, he or she is to provide the employee a written explanation as to why he or she denied the request.

### **V. TIME LIMITS FOR EARNING COMPENSATORY TIME BY WORKING IN EXCESS OF NORMAL WORK SCHEDULE TO EARN RELIGIOUS COMPENSATORY TIME**

A. 5 CFR 550.1006 permits religious compensatory time off to be earned up to 13 pay periods in advance of the pay period in which it is intended to be used, or within 13 pay periods following the pay period in which it was used.

B. If an employee fails to earn religious compensatory time off within 13 pay periods after the pay period in which it was used, the employee may use accrued time off to liquidate the negative balance. If accrued time off is not sufficient to liquidate the debt, the remaining balance will be charged as leave without pay. A charge of leave without pay results in a debt that is subject to internal debt collection procedures.

C. As set out in 5 CFR 550.1007, if an employee does not use his or her earned religious compensatory time off as planned, the positive balance of unused compensatory time off may be re-directed toward a future religious observance that has been approved, even if that future observance is more than 13 pay periods after the compensatory time off was originally earned. This type of unused religious compensatory time off hours remains to the employee's credit until used or paid out if the employee separates Federal service or transfers. An employee may not earn any additional religious compensatory time off until the retained amount of religious compensatory time off has been used or the need to earn additional religious compensatory time off has been properly established and documented.

## **VI. SEPARATION OR TRANSFER**

A. As set out in 5 CFR 550.1008, an employee with a positive balance of earned but unused religious compensatory time off who is separating from Federal service or transferring to another Federal agency is paid for these hours at the hourly rate of basic pay in effect when the religious compensatory time off was earned. Unused religious compensatory time off is never paid at the overtime premium pay hourly rate; it is paid at the basic rate. Unused religious compensatory time off cannot be forfeited, nor can it be converted to another type of paid time off. The employee is to be paid for the time.

B. An employee with a negative balance of religious compensatory time off who is separating from Federal service or transferring to another Federal agency is considered indebted to FSIS. Accrued time off will be substituted in the following order:

1. Compensatory Time Off (unless the employee has projected use or lose annual leave);
2. Annual Leave (includes restored annual leave);
3. Compensatory Time Off for Travel;
4. Time Off Awards; and
5. Credit Hours

C. If accrued time off is not sufficient to liquidate the debt, the remaining balance will be charged to leave without pay.

## **VII. TRANSITIONAL PROVISIONS**

A. As set out in 5 CFR 550.1010, an employee who has a negative balance (i.e., debt) of used but not-yet-earned religious compensatory time off as of May 29, 2019, will be subject to the 13-pay period limitation for liquidating the debt. This means that the employee will have until November 23, 2019, (the end of pay period 23), to earn the time necessary to liquidate their indebtedness.

B. If an employee has a positive balance of earned but unused religious compensatory time off hours as May 29, 2019, he or she is to direct all unused hours to a future religious observance. If the employee does not direct the unused hours to a future religious observance, he or she may not earn any additional religious compensatory time off until the positive balance has been directed to a religious observance.

## VIII. QUESTIONS

Refer questions to the Human Capital Planning and Accountability Branch, Human Resources Business Systems Division at [PayAndLeaveGuidance@usda.gov](mailto:PayAndLeaveGuidance@usda.gov).

A handwritten signature in black ink that reads "Sabrina J. Wagner". The signature is written in a cursive style with a large initial 'S'.

Assistant Administrator  
Office of Policy and Program Development