

U.S. Office of Personnel Management

Recruiting, Retaining, and Honoring a World-Class Workforce to Serve the American People

QUESTIONS AND ANSWERS ON COMPENSATORY TIME OFF FOR TRAVEL

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Q1. What is compensatory time off for travel?

A. Compensatory time off for travel is a separate form of compensatory time off that may be earned by an employee for time spent in a travel status away from the employee's official duty station when such time is not otherwise compensable.

Q2. Are all employees covered by this provision?

A. The 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. For example, this includes employees in senior-level (SL) and scientific or professional (ST) positions, but not members of the Senior Executive Service or Senior Foreign Service or Foreign Service officers. Effective April 27, 2008, prevailing rate (wage) employees are covered under the compensatory time off for travel provision.

Q3. Are intermittent employees eligible to earn compensatory time off for travel?

A. No. Compensatory time off for travel may be used by an employee when the employee is granted time off from his or her scheduled tour of duty established for leave purposes. (See 5 CFR 550.1406(b).) Also see the definition of "scheduled tour of duty for leave purposes" in 5 CFR 550.1403. Employees who are on intermittent work schedules are not eligible to earn and use compensatory time off for travel because they do not have a scheduled tour of duty for leave purposes.

Q4. What qualifies as travel for the purpose of this provision?

A. To qualify for this purpose, travel must be officially authorized. In other words, travel must be for work purposes and must be approved by an authorized agency official or otherwise authorized under established agency policies. (Also see Q5.)

Q5. May an employee earn compensatory time off when he or she travels in conjunction with the performance of union representational duties?

A. No. The term "travel" is defined at 5 CFR 550.1403 to mean officially authorized travel—i.e., travel for work purposes approved by an authorized agency official or otherwise authorized

under established agency policies. The definition specifically excludes time spent traveling in connection with union activities. The term "travel for work purposes" is intended to mean travel for agency-related work purposes. Thus, employees who travel in connection with union activities are not entitled to earn compensatory time off for travel because they are traveling for the benefit of the union, and not for agency-related work purposes.

Q6. An employee receives compensatory time off for travel only for those hours spent in a travel status. What qualifies as time in a travel status?

A. Travel status includes only the time actually spent 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.

Q7. Is travel in connection with a permanent change of station (PCS) creditable for compensatory time off for travel?

A. Although PCS travel is officially authorized travel, it is not travel between an official duty station and a temporary duty station or between two temporary duty stations. Therefore, it is not considered time in a travel status for the purpose of earning compensatory time off for travel.

Q8. What is meant by "usual waiting time"?

A. Airline travelers generally are required to arrive at the airport at a designated pre-departure time (e.g., 1 or 2 hours before the scheduled departure, depending on whether the flight is domestic or international). Such waiting time at the airport is considered usual waiting time and is creditable time in a travel status. In addition, time spent at an intervening airport waiting for a connecting flight (e.g., 1 or 2 hours) also is creditable time in a travel status. In all cases, determinations regarding what is creditable as "usual waiting time" are within the sole and exclusive discretion of the employing agency.

Q9. What if an employee experiences an "extended" waiting period?

A. If an employee experiences an unusually long wait prior to his or her initial departure or between actual periods of travel during which the employee is free to rest, sleep, or otherwise use the time for his or her own purposes, the extended waiting time outside the employee's regular working hours is not creditable time in a travel status. An extended waiting period that occurs during an employee's regular working hours is compensable as part of the employee's regularly scheduled administrative workweek.

Q10. Do meal periods count as time in a travel status?

A. Meal periods during actual travel time or waiting time are not specifically excluded from creditable time in a travel status for the purpose of earning compensatory time off for travel. However, determinations regarding what is creditable as "usual waiting time" are within the sole and exclusive discretion of the employing agency.

Q11. What happens once an employee reaches a temporary duty station?

A. Time spent at a temporary duty station between arrival and departure is not creditable travel time for the purpose of earning compensatory time off for travel. Time in a travel status ends when the employee arrives at the temporary duty worksite or his or her lodging in the temporary duty station, wherever the employee arrives first. Time in a travel status resumes when an employee departs from the temporary duty worksite or his or her lodging in the temporary duty station, wherever the employee departs last.

Q12. When is it appropriate for an agency to offset creditable time in a travel status by the amount of time the employee spends in normal commuting between home and work?

A. If an employee travels directly between his or her home and a temporary duty station outside the limits of the employee's official duty station (e.g., driving to and from a 3-day conference), the agency must deduct the employee's normal home-to-work/work-to-home commuting time from the creditable travel time. The agency must also deduct an employee's normal commuting time from the creditable travel time if the employee is required—outside of regular working hours—to travel between home and a transportation terminal (e.g., an airport or train station) outside the limits of the employee's official duty station.

Q13. What if an employee travels to a transportation terminal within the limits of his or her official duty station?

A. An employee's time spent traveling outside of regular working hours to or from a transportation terminal within the limits of his or her official duty station is considered equivalent to commuting time and is not creditable time in a travel status for the purpose of earning compensatory time off for travel.

Q14. What if an employee travels from a worksite to a transportation terminal?

A. If an employee travels between a worksite and a transportation terminal, the travel time outside regular working hours is creditable as time in a travel status, and no commuting time offset applies. For example, after completing his or her workday, an employee may travel directly from the regular worksite to an airport to attend an out-of-town meeting the following morning. The travel time between the regular worksite and the airport is creditable as time in a travel status.

Q15. What if an employee elects to travel at a time other than the time selected by the agency?

A. When an employee travels at a time other than the time selected by the agency, the agency must determine the estimated amount of time in a travel status the employee would have had if the employee had traveled at the time selected by the agency. The agency must credit the employee with the lesser of (1) the estimated time in a travel status the employee would have had if the employee had traveled at the time selected by the agency, or (2) the employee's actual time in a travel status at a time other than that selected by the agency.

Q16. How is an employee's travel time calculated for the purpose of earning compensatory time off for travel when the travel involves two or more time zones?

A. When an employee's travel involves two or more time zones, the time zone from point of first departure must be used to determine how many hours the employee actually spent in a travel status for the purpose of accruing compensatory time off for travel. For example, if an employee travels from his official duty station in Washington, DC, to a temporary duty station in San Francisco, CA, the Washington, DC, time zone must be used to determine how many hours the employee spent in a travel status. However, on the return trip to Washington, DC, the time zone from San Francisco, CA, must be used to calculate how many hours the employee spent in a travel status.

Q17. How is compensatory time off for travel earned and credited?

A. Compensatory time off for travel is earned for qualifying time in a travel status. Agencies may authorize credit in increments of one-tenth of an hour (6 minutes) or one-quarter of an hour (15 minutes). Agencies must track and manage compensatory time off for travel separately from other forms of compensatory time off.

Q18. Is there a limitation on the amount of compensatory time off for travel an employee may earn?

A. No.

Q19. How does an employee request credit for compensatory time off for travel?

A. Agencies may establish procedures for requesting credit for compensatory time off for travel. An employee must comply with his or her agency's procedures for requesting credit of compensatory time off, and the employee must file a request for such credit within the time period established by the agency. An employee's request for credit of compensatory time off for travel may be denied if the request is not filed within the time period required by the agency.

Q20. Is there a form employees must fill out for requests to earn or use compensatory time off for travel?

A. There is not a Governmentwide form used for requests to earn or use compensatory time off for travel. However, an agency may choose to develop a form as part of its internal policies and procedures.

Q21. How does an employee use accrued compensatory time off for travel?

A. An employee must request permission from his or her supervisor to schedule the use of his or her accrued compensatory time off for travel in accordance with agency policies and procedures. Compensatory time off for travel may be used when the employee is granted time off from his or her scheduled tour of duty established for leave purposes. Employees must use accrued

compensatory time off for travel in increments of one-tenth of an hour (6 minutes) or one-quarter of an hour (15 minutes).

Q22. In what order should agencies charge compensatory time off for travel?

A. Agencies must charge compensatory time off for travel in the chronological order in which it was earned, with compensatory time off for travel earned first being charged first.

Q23. How long does an employee have to use accrued compensatory time off for travel?

A. An employee must use his or her accrued compensatory time off for travel by the end of the 26th pay period after the pay period during which it was earned or the employee must forfeit such compensatory time off, except in certain circumstances. (See Q24 and Q25 for exceptions.)

Q24. What if an employee is unable to use his or her accrued compensatory time off for travel because of uniformed service or an on-the-job injury with entitlement to injury compensation?

A. Unused compensatory time off for travel will be held in abeyance for an employee who separates, or is placed in a leave without pay status, and later returns following (1) separation or leave without pay to perform service in the uniformed services (as defined in 38 U.S.C. 4303 and 5 CFR 353.102) and a return to service through the exercise of a reemployment right or (2) separation or leave without pay due to an on-the-job injury with entitlement to injury compensation under 5 U.S.C. chapter 81. The employee must use all of the compensatory time off for travel held in abeyance by the end of the 26th pay period following the pay period in which the employee returns to duty, or such compensatory time off for travel will be forfeited.

Q25. What if an employee is unable to use his or her accrued compensatory time off for travel because of an exigency of the service beyond the employee's control?

A. If an employee fails to use his or her accrued compensatory time off for travel before the end of the 26th pay period after the pay period during which it was earned due to an exigency of the service beyond the employee's control, the head of an agency, at his or her sole and exclusive discretion, may extend the time limit for up to an additional 26 pay periods.

Q26. May unused compensatory time off for travel be restored if an employee does not use it by the end of the 26th pay period after the pay period during which it was earned?

A. Except in certain circumstances (see Q24 and Q25), any compensatory time off for travel not used by the end of the 26th pay period after the pay period during which it was earned must be forfeited.

Q27. What happens to an employee's unused compensatory time off for travel upon separation from Federal service?

A. Except in certain circumstances (see Q24), an employee must forfeit all unused compensatory time off for travel upon separation from Federal service.

Q28. May an employee receive a lump-sum payment for accrued compensatory time off for travel upon separation from an agency?

A. No. The law prohibits payment for unused compensatory time off for travel under any circumstances.

Q29. What happens to an employee's accrued compensatory time off for travel upon transfer to another agency?

A. When an employee voluntarily transfers to another agency (including a promotion or change to lower grade action), the employee must forfeit all of his or her unused compensatory time off for travel.

Q30. What happens to an employee's accrued compensatory time off for travel when the employee moves to a position that is not covered by the regulations in 5 CFR part 550, subpart N?

A. When an employee moves to a position in an agency not covered by the compensatory time off for travel provisions (e.g., the United States Postal Service), the employee must forfeit all of his or her unused compensatory time off for travel. However, the gaining agency may use its own legal authority to give the employee credit for such compensatory time off.

Q31. Is compensatory time off for travel considered in applying the premium pay and aggregate pay caps?

A. No. Compensatory time off for travel may not be considered in applying the biweekly or annual premium pay limitations established under 5 U.S.C. 5547 or the aggregate limitation on pay established under 5 U.S.C. 5307.

Q32. When are criminal investigators who receive availability pay precluded from earning compensatory time off for travel?

A. Compensatory time off for travel is earned only for hours not otherwise compensable. The term "compensable" is defined at 5 CFR 550.1403 to include any hours of a type creditable under other compensation provisions, even if there are compensation caps limiting the payment of premium pay for those hours (e.g., the 25 percent cap on availability pay and the biweekly premium pay cap). For availability pay recipients, this means hours of travel are not creditable as time in a travel status for compensatory time off purposes if the hours are (1) compensated by basic pay, (2) regularly scheduled overtime hours creditable under 5 U.S.C. 5542, or (3) "unscheduled duty hours" as described in 5 CFR 550.182(a), (c), and (d).

Q33. What constitutes "unscheduled duty hours" as described in 5 CFR 550.182(a), (c), and (d)?

A. Under the availability pay regulations, unscheduled duty hours include (1) all irregular overtime hours—i.e., overtime work not scheduled in advance of the employee's administrative workweek, (2) the first 2 overtime hours on any day containing part of the employee's basic 40-hour workweek, without regard to whether the hours are unscheduled or regularly scheduled, and (3) any approved nonwork availability hours. However, special agents in the Diplomatic Security Service of the Department of State may count only hours actually worked as unscheduled duty hours.

Q34. Why are criminal investigators who receive availability pay precluded from earning compensatory time off when they travel during unscheduled duty hours?

A. The purpose of availability pay is to ensure the availability of criminal investigators (and certain similar law enforcement employees) for unscheduled duty in excess of a 40-hour workweek based on the needs of the employing agency. Availability pay compensates an employee for all unscheduled duty hours. Compensatory time off for travel is earned only for hours not otherwise compensable. Thus, 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.

Q35. When is it possible for criminal investigators who receive availability pay to earn compensatory time off for travel?

A. When 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 CFR 550.112(g)(2), the travel time is not compensable as overtime hours of work under regular overtime or availability pay. Thus, the employee may earn compensatory time off for such travel, subject to the exclusion specified in 5 CFR 550.1404(b)(2) and the requirements in 5 CFR 550.1404(c),(d), and (e).

Under the provisions in 5 U.S.C. 5542(b)(2)(B) and 5 CFR 550.112(g)(2), travel time is compensable as overtime hours of work if the travel is away from the employee's official duty station and—

- (i) involves the performance of work while traveling,
- (ii) is incident to travel that involves the performance of work while traveling,
- (iii) is carried out under arduous conditions, or
- (iv) results from an event which could not be scheduled or controlled administratively.

The phrase "an event which could not be scheduled or controlled administratively" refers to the ability of an agency in the Executive Branch of the United States Government to control the scheduling of an event which necessitates an employee's travel. If the employing agency or another Executive Branch agency has any control over the scheduling of the event, including by means of approval of a contract for it, then the event is administratively controllable, and the travel to and from the event cannot be credited as overtime hours of work.

For example, an interagency conference sponsored by the Department of Justice would be considered a joint endeavor of the participating Executive Branch agencies and within their administrative control. Under these circumstances, the travel time outside an employee's regular working hours is not compensable as overtime hours of work under regular overtime or availability pay. Therefore, the employee may earn compensatory time off for such travel, subject to the exclusion specified in 5 CFR 550.1404(b)(2) and the requirements in 5 CFR 550.1404(c), (d), and (e).

Q36. If an employee is required to travel on a Federal holiday (or an "in lieu of" holiday), is the employee entitled to receive compensatory time off for travel?

A. Although most employees do not receive holiday premium pay for time spent traveling on a holiday (or an "in lieu of" holiday), an employee continues to be entitled to pay for the holiday in the same manner as if the travel were not required. Thus, an employee may not earn compensatory time off for travel during basic (non-overtime) holiday hours because the employee is entitled to his or her rate of basic pay for those hours. Compensatory time off for travel may be earned by an employee only for time spent in a travel status away from the employee's official duty station when such time is not otherwise compensable.

Q37. If an employee's regularly scheduled tour of duty is Sunday through Thursday and the employee is required to travel on a Sunday during regular working hours, is the employee entitled to earn compensatory time off for travel?

A. No. Compensatory time off for travel may be earned by an employee only for time spent in a travel status away from the employee's official duty station when such time is not otherwise compensable. Thus, an employee may not earn compensatory time off for travel for traveling on a workday during regular working hours because the employee is receiving his or her rate of basic pay for those hours.

Q38. May an agency change an employee's work schedule for travel purposes?

A. An agency may not adjust the regularly scheduled administrative workweek that normally applies to an employee (part-time or full-time) solely for the purpose of including planned travel time not otherwise considered compensable hours of work. However, an employee is entitled to earn compensatory time off for travel for time spent in a travel status when such time is not otherwise compensable.

Q39. Is time spent traveling creditable as credit hours for an employee who is authorized to earn credit hours under an alternative work schedule?

A. Credit hours are hours an employee elects to work, with supervisory approval, in excess of the employee's basic work requirement under a flexible work schedule. Under certain conditions, an agency may permit an employee to earn credit hours by performing productive and essential work while in a travel status. See OPM's Handbook on Alternative Work Schedules at http://www.opm.gov/oca/worksch/HTML/Cred_hrs.htm#travel for the conditions that must be met. If those conditions are met and the employee does earn credit hours for travel, the time

spent traveling would be compensable and the employee would not be eligible to earn compensatory time off for travel. If the conditions are not met, the employee would be eligible to earn compensatory time off for travel.

Q40. May an agency restore an employee's forfeited "use-or-lose" annual leave because the employee elected to use earned compensatory time off for travel instead of using his or her excess annual leave?

A. Section 6304(d) of title 5, United States Code, prescribes the conditions under which an employee's forfeited annual leave may be restored to an employee. (See fact sheet on restored annual leave at <http://www.opm.gov/oca/leave/HTML/RESTORE.asp>.) There is no legal authority to restore an employee's forfeited annual leave because the employee elected to use earned compensatory time off for travel instead of using his or her excess annual leave.

Q41. If an employee is eligible to receive overtime pay for a period of travel because the travel meets one of the four criteria in 5 CFR 550.112(g)(2), is the employee eligible to earn compensatory time off for travel for any portion of the travel which may not be compensable because of the biweekly cap on premium pay?

A. No. Compensatory time off for travel may be earned by an employee only for time spent in a travel status away from the employee's official duty station when such time is not otherwise compensable. The term "compensable" is defined at 5 CFR 550.1403 to make clear what periods of time are "not otherwise compensable" and thus potentially creditable for the purpose of earning compensatory time off for travel. Time is considered compensable if the time is creditable as hours of work for the purpose of determining a specific pay entitlement (e.g., overtime pay for travel meeting one of the four criteria in 5 CFR 550.112(g)(2)) even when the time may not actually generate additional compensation because of applicable pay limitations (e.g., biweekly premium pay cap). The capped premium pay is considered complete compensation for all hours of work creditable under the premium pay provisions.

In other words, even though an employee may not receive overtime pay for all of his or her travel hours because of the biweekly premium pay cap, all of the travel time is still considered to be compensable under 5 CFR 550.112(g)(2). Under these circumstances, the employee has been compensated fully under the law for all of the travel hours and the employee may not earn compensatory time off for any portion of such travel not generating additional compensation because of the biweekly cap on premium pay.

Q42. May an employee who receives administratively uncontrollable overtime (AUO) pay under 5 U.S.C. 5545(c)(2) earn compensatory time off for travel?

A. If such employee's travel time is not compensable under 5 CFR 550.112(g) or 5 CFR 551.422, as applicable, and meets the requirements in 5 CFR part 550, subpart N, the employee is eligible to earn compensatory time off for travel for time spent in a travel status.

Q43. If a part-time employee's regularly scheduled tour of duty is Monday through Friday, 8:00 a.m. to 2:30 p.m., and the employee is required to travel on a Friday from 2:30 p.m. to

4:30 p.m., is the employee entitled to earn compensatory time off for travel for those 2 hours?

A. It depends. If the travel qualifies as compensable hours of work under 5 U.S.C. 5542(b)(2)(B) and 5 CFR 550.112(g)(2)—i.e., the travel involves or is incident to the performance of actual work, is carried out under arduous and unusual conditions, or results from an event which could not be scheduled or controlled administratively—the employee may not be credited with compensatory time off for travel hours. (Such travel time outside a part-time employee's scheduled tour of duty, but not in excess of 8 hours in a day or 40 hours in a week, would be non-overtime hours of work compensated at the employee's rate of basic pay.) If the travel time does not qualify as compensable hours of work and meets the other requirements in 5 CFR part 550, subpart N, the part-time employee would be entitled to earn compensatory time off for those 2 hours. We note travel time is always compensable hours of work if it falls within an employee's regularly scheduled administrative workweek. (See 5 U.S.C. 5542(b)(2)(A) and 5 CFR 550.112(g)(1).) For a part-time employee, the regularly scheduled administrative workweek is defined in 5 CFR 550.103 as the officially prescribed days and hours within an administrative workweek during which the employee was scheduled to work in advance of the workweek. An agency may not adjust the regularly scheduled administrative workweek normally applied to an employee (part-time or full-time) solely for the purpose of including planned travel time otherwise not considered compensable hours of work.

Q44. Does an upgrade in travel accommodations impact an employee's entitlement to compensatory time off for travel?

A. Allowing an employee to upgrade his or her travel accommodations (e.g., to business class) does not eliminate his or her eligibility to earn compensatory time off for travel.