

<b>NORTH CAROLINA DEPARTMENT OF COMMERCE</b>		<b>POLICY # HR-2</b>
<b>Title: Compensatory Leave Policy</b>		
<b>Effective Date: May 1, 2012</b>	<b>Administering Authority: Human Resources Dir.</b>	
<b>Revisions:</b>		
<b>Statutory Authority (if applicable): G.S. 126</b>		

**Purpose:** To Provide Guidance for all Commerce Employees on Compensatory Leave

**Policy:** It is the policy of the NC Department of Commerce to ensure fair and equitable compensation for all agency employees in accordance with the Fair Labor Standards Act (FLSA) as well as the OSP policy on Hours of Work and Overtime Compensation. This policy will govern the rate of compensation for employees whose position/work is subject to the provisions of the federal FLSA. It will also address the method for awarding compensatory time for employees whose position/work is designated as exempt from those same provisions.

The Human Resources Director will be responsible for adherence to State Personnel and FLSA guidelines in determining which positions within the department are subject to FLSA and which ones are exempt from FLSA. A list of positions and their status according to these designations will be kept in the Human Resources Office.

**Employees Whose Position/Work is Subject (Non-Exempt) to the Fair Labor Standards Act (FLSA)**  
 FLSA regulations require that an employee be given compensation of premium time and one-half rates in the form of **1)** monetary compensation; **or 2)** time off for hours worked in excess of 40 within a week, unless based on an exception for those employees considered exempt. An employee shall receive straight-time pay for a standard 40-hour work week with the provision that an additional amount equal to time and one-half the employee's regular rate times that number of hours worked in excess of 40 will be added to the base pay. Such payment may be made in the form of monetary compensation or compensable time off. **It is the policy of the DOC to award compensatory time off rather than monetary payment.** All employees subject to the provision of the FLSA shall be required to review and acknowledge their understanding of this policy. It shall be the responsibility of the DOC Human Resources Office to ensure distribution of the policy and to explain the provisions of this policy during orientation for new employees.

An employee shall be given compensatory time on the basis of one and one-half times the amount of time worked **beyond 40 hours during a single workweek**. Such time off must be taken *within one year* from the date the overtime was performed. Employees are required to exhaust compensatory time before any annual leave or special annual leave (bonus leave) is taken. Employees must receive prior approval from their supervisor before accruing compensatory time and must receive prior approval before exhausting any compensatory time earned. Employees must also receive prior approval from their supervisor for any changes to their daily work schedule.

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### **Employees Whose Position/Work Is Not Subject to the Fair Labor Standards Act (FLSA)**

The purpose of this policy is to establish procedures for providing compensatory leave for Department employees designated as Administrative, Executive, or Professional. Employees in these categories are exempt from the Fair Labor Standards Act (FLSA) provision for overtime pay. It is the policy of the DOC that employees whose positions are exempt from overtime compensation provisions *may be awarded compensatory time at the discretion of the appropriate Commission/Division Head*. Compensatory time shall be granted consistently and fairly within a Commission/Division to ensure equitable treatment of all employees. This policy strictly prohibits the award of compensatory time for exempt employees if such awards are made on a selective or discriminatory basis. Any Commissions or "Type II" agencies within the Department of Commerce, whose agency head does not report to the Secretary of Commerce, may elect not to participate in the exempt-employee portion of the compensatory leave policy. However, the agency head must submit a compensatory leave policy to the Director of Human Resources for written approval in advance of administering any such leave policy. This policy must be set within the guidelines established by the Office of State Personnel. Questions regarding the classification of a specific position as subject or exempt should be directed to the Commerce Human Resources Office.

Guidelines for Employees Not Subject to FLSA:

**All overtime work for which compensatory leave will be granted must be approved in advance by the appropriate supervisor. Any compensatory leave taken by an employee, or any change in the employee's work schedule, must also be approved in advance by the appropriate supervisor.**

Compensatory time shall be earned on an hour-for-hour basis and is cumulative as follows:

1. Employees must work a minimum of one half-hour, on each occurrence before earning approved compensatory leave. The incremental units of time after for earning compensatory leave can be taken in units no smaller than 6 minute increments (which are automatically rounds leave or time worked up when a decimal equivalent is entered). If, at the end of a work week the time worked and/or on paid leave exceeds 40 hours, the additional time may be approved as compensatory time. For example, if an exempt employee is on sick leave for 8 hours during a workweek and earns compensatory time in the same workweek so that combined paid leave and work time is 42 hours, the two extra hours can be compensatory time with prior approval by the employee's supervisor.
2. Compensatory time for employees not subject to FLSA is a benefit, not an entitlement to the employee. BEACON and the DES TIME system do not provide a cap of compensatory leave; therefore, supervisors may require FLSA-not subject employees to limit comp. time accruals. Compensatory leave shall be granted by the appropriate supervisor at the convenience of the work unit.
3. Compensatory leave cannot be converted to vacation or sick leave, but may be used in lieu of such leave with the supervisor's approval.
4. Compensatory leave cannot be transferred to another Department or other agency of State Government. Compensatory leave may be transferred to another Division or Commission with the prior approval of the Division/Commission Head. . This policy strictly prohibits the transfer of compensatory time for exempt employees if such awards are made on a selective or discriminatory basis.
5. Compensatory leave is lost when the employee is separated from state service. The employee's separation date may not be scheduled in order to allow for use of compensatory leave.

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## **Compensatory Time Criteria**

### Qualifying Work:

Compensatory leave must be earned for the following:

Required work on non-workdays.

Required work over and above the normal workday.

Attendance at official government meetings or other meetings in which the employee is on the program or is an official Division/Commission representative that results in an employee's working more than the normal day.

### Non-Qualifying Work

Compensatory time shall not be earned for the following:

1. Attendance at non-compulsory meetings associated with professional associations, non work-related workshops, etc.

2. Standby at home.

3. The scheduled lunch period.

### Procedures

All time worked and leave taken shall be recorded on the Department of Commerce Beacon timekeeping system or TIME system.