

Compensatory Time Off for Religious Observances

1. **PURPOSE.** This notice revises VA Handbook 5011, Part II, Chapters 2 and 3 – Religious Holidays. The revision incorporates regulations for compensatory time off for religious observances as authorized under 5 U.S.C. § 5550a. The Office of Personnel Management’s (OPM) final regulations are contained in title 5 of the Code of Federal Regulations, part 550, subpart J, and became effective on May 29, 2019.
2. **BACKGROUND.** Compensatory time off for religious observances permits an employee whose personal religious beliefs require an absence from work during certain periods of time to elect to engage in overtime work and earn a special form of compensatory time off to make up for the absence. The sole purpose of religious compensatory time is to adjust an employee’s work schedule to accommodate a religious observance. Hours worked to earn religious compensatory time off provide a time off credit in lieu of any pay that would otherwise be payable for that work.
3. **SCOPE.** These regulations are applicable to full-time and part-time title 5, title 38 hybrid, and title 38 employees, including Senior Executive Service (SES), Senior Leader (SL), Scientific or Professional (ST) employees, political appointees, and wage grade (WG) employees. They do not apply to employees for whom no regular tour of duty has been established (e.g. persons employed on an intermittent basis, per annum fee basis, or a lump-sum fee basis, under authority of 38 U.S.C. § 7405).
4. **GUIDANCE.**
 - a. An employee whose personal religious beliefs require the abstention from work during certain periods of time may elect to perform overtime work in order to make up for time the employee takes off to meet those personal religious requirements.
 - b. The overtime hours worked to earn religious compensatory time off do not create an entitlement to premium pay or other pay (including overtime pay).
 - c. Overtime work is defined under the regulations as work performed by an employee outside his or her scheduled tour of duty for the purpose of making up time lost for meeting personal religious requirements. This includes any work outside the tour of duty (including on holidays) during which the employee would otherwise be excused from duty, regardless of whether applicable overtime thresholds are met. Thus, even work performed by a part-time employee working less than 40 hours a week but outside his or her tour of duty would meet the definition of overtime under the regulations.

- d. Employees who wish to request religious compensatory time off must provide their supervisor with the name and/or description of the religious observance, date(s) and time(s) of the expected absence, and date(s) and time(s) the employee plans to perform overtime work to earn religious compensatory time off to make up for the absence. The request must be made in advance.
- e. In the event an adjustment to the dates and times of planned overtime work is required due to unforeseen circumstances, the employee must submit for approval a revised schedule to reflect those changes.
- f. The scheduling of time to earn and use religious compensatory time off by an employee is subject to the supervisor's approval. The specific timing of the overtime work is a matter of administrative discretion based on the needs of the agency. However, an employee's request to use religious compensatory time off must be approved unless the supervisor determines that approving the request would interfere with the agency's ability to efficiently carry out its mission.
- g. Religious compensatory time off may be earned up to 13 pay periods in advance of the pay period in which the targeted religious observance commences and must be linked to specific dates and times for future use.
- h. Earned religious compensatory time off that has not been used as planned may be redirected toward a future religious observance, even if that future event is more than 13 pay periods after the date the compensatory time off was originally earned.
- i. An employee who uses religious compensatory time off prior to earning it must fulfill his or her obligation to perform overtime work in exchange for the advanced religious compensatory time off within 13 pay periods after the pay period in which religious compensatory time off was used. The 13 pay periods are calculated beginning with the first pay period beginning after the date on which the religious compensatory time off was used. If an employee fails to earn religious compensatory time off within 13 pay periods after the pay period in which it was used, corrective action must be taken to eliminate or reduce the negative balance. The agency may resolve the debt by making a corresponding reduction in the employee's balance of annual leave, credit hours, compensatory time off in lieu of regular overtime pay, compensatory time off for travel, or time-off awards. Any remaining negative balance must be resolved by charging the employee leave without pay, which will result in an indebtedness that is subject to the Department of Veteran Affairs (VA) internal debt collection procedures.
- j. An employee may accumulate only the amount of religious compensatory time off needed to cover an approved absence for a religious observance (i.e., the time off needed to cover the specific date(s) and time(s)). The employee may not earn any additional religious compensatory time off until the accumulated

hours have been used or the need to earn additional religious compensatory time off has been properly established and documented.

5. SUPERVISOR RESPONSIBILITIES.

- a. To the maximum extent practicable, supervisors must require that the employee's request be submitted in writing. If the supervisor accepts an oral request, the supervisor must document all the information required in paragraph 4(d) above and must require the employee submit written documentation containing all the information as soon as practicable. Supervisors must be cognizant of the Agency's requirement to maintain records of such information for each employee.
- b. Supervisors must provide the employee with an opportunity to earn religious compensatory time off (to offset absences) by performing overtime work within the 13 pay period time limits described.
- c. Supervisors are responsible for monitoring employee requests for religious compensatory time off to ensure that any previously retained hours have been used or the need to earn additional religious compensatory time off has been properly established and documented prior to approving an employee's request to earn additional hours.

Supervisors are not responsible for determining whether an employee's belief is the correct interpretation of a religious creed. It is sufficient that the employee's sincerely held personal religious beliefs cause the employee to feel an obligation that he or she should be absent from work for a religious purpose. Therefore, supervisors should refrain from making judgments on an employee's religion or religious beliefs.

- d. Supervisors must approve an employee's request to use religious compensatory time off unless the supervisor determines that approving the request would interfere with the agency's ability to efficiently carry out its mission. If a request is denied, the supervisor must provide a written explanation as to why, regardless of whether the request was written or oral.

6. SEPARATION OR TRANSFER OF EMPLOYEE.

- a. An employee who separates from Federal service or transfers to another Federal agency must be compensated for any positive balance of earned religious compensatory time off to his or her credit.
- b. Payment of religious compensatory hours is based on the hourly rate of basic pay in effect at the time the religious compensatory time off was earned.

- c. Religious compensatory time off cannot be forfeited, paid as overtime premium pay, provided as compensatory time off in lieu of overtime pay, or converted to any other forms of time off.
- d. If an employee has a negative balance of religious compensatory time off upon separation from VA or transfer to another Federal agency, the negative balance of hours represents a debt owed to the VA by the employee. VA is required to take corrective action to eliminate or reduce the negative balance by making a corresponding reduction in the employee's balance of annual leave, credit hours, compensatory time off in lieu of regular overtime pay, compensatory time off for travel, or time-off awards; otherwise the debt will be resolved by charging the employee leave without pay, which will result in an indebtedness subject to VA's internal debt collection procedures.

7. TRANSITIONAL PROVISIONS.

- a. The supervisor must confirm the balance of earned but unused religious compensatory time off hours for employees with a positive balance as of the effective date of these regulations and document that the hours are connected to one or more specific future religious observances requiring the employee's absence from work. The employee must be given the opportunity to direct all unused hours to such future religious observances. If the employee does not direct all unused hours, the employee may not earn any additional compensatory time off until a need is established to earn such time off hours.
- b. For an employee who has a negative balance (i.e. debt) of used but not-yet-earned religious compensatory time off hours as of the effective date of these regulations, the 13-pay period limitation is applied as if the effective date of the regulations were the date on which all the hours of religious compensatory time off were used. Thus, the employee will have a full 13 pay periods from May 29, 2019 (i.e., from May 26, 2019 to December 7, 2019) to earn the needed number of religious compensatory time off hours. If an employee fails to earn religious compensatory time off within 13 pay periods, corrective action must be taken as described in paragraph 4(i) above.

8. RECORDS AND REPORTING.

- a. Leave approving officials are required to ensure timekeeping documents reflect the actual hours worked by their employees.
- b. Religious compensatory time must be recorded in the VA Time and Attendance System (VATAS) as religious compensatory time earned (CR) and religious compensatory time taken (CA), subject to system limitations pending system updates.

- c. VA is required to keep records of the name and/or description of the religious observance, and the dates, times, and amount of religious compensatory time off each employee earns and uses.

9. RESPONSIBLE OFFICE. Questions regarding this may be directed to the Office of the Chief Human Capital Officer, Worklife and Benefits Service at vaco058worklife@va.gov.

10. This notice expires one year after the date of publication. HRA will incorporate amended requirements into Handbook 5011.

CERTIFIED BY:

**BY DIRECTION OF THE SECRETARY
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