



CALIFORNIA MILITARY DEPARTMENT INSTRUCTION

NGCA-JSD-MP
DISTRIBUTION: TA

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COMPENSATORY TIME AND OVERTIME PAY

References: See [Enclosure R](#).

1. Purpose. To provide instructions on compensatory time, overtime pay, and compensatory time for travel.
2. Superseded/Canceled. Supersedes CMDI 1418.11, Compensatory Time and Overtime Pay, 2 February 2018.
3. Applicability. This instruction applies to all California National Guard (CNG) Title 5 federal civilian (T5) and Title 32 technician (T32) employees.
4. Policy. Requests for overtime pay require Human Resources Office or Wing Comptroller approval for verification of funds available as specified in Enclosure B. See Enclosures A through C for additional instructions.
5. Releasability. This issuance is approved for public release; distribution is unlimited.
6. Effective Date. This instruction is effective upon publication.
7. Responsibilities. Point of contact for this policy is the Employee Benefits Section, ng.ca.caarng.list.j1-hro-benefits@mail.mil, (916) 854-3122.

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Enclosures:

- [A – Compensatory Time](#)
- [B – Overtime Pay](#)
- [C – Compensatory Time Off for Travel](#)
- [GL – Glossary](#)
- [R – References](#)

ENCLOSURE A
COMPENSATORY TIME

1. Compensatory Time. This enclosure establishes the control and use of compensatory time within the California National Guard only. Refer to [Enclosure C](#) for compensatory time earned while traveling to a temporary duty station (TDY).

a. Compensatory time is earned in lieu of overtime pay for an equal amount of time spent in irregular or occasional overtime work in excess of their regular work hours during their duty day (i.e., for work performed before or after their normal duty day) or in excess of 40 hours in a workweek.

b. Compensatory time must be used prior to annual leave except when the annual leave has been designated as “use or lose.”

c. Employees must have supervisor concurrence before working compensatory time.

d. Supervisors are responsible for minimizing compensatory time requests by assuring that sufficient numbers and types of personnel are scheduled to be present to carry out operations in an efficient and economical manner.

e. Supervisors must reference Collective Bargaining Agreements (CBA) requirements when scheduling compensatory time for employees that are covered by the CBA.

2. Applicability. The ability to earn compensatory time depends on the employee’s appointment status and Fair Labor Standards Act (FLSA) category. The appointment status (Field 5-C or 5-E) and FLSA category (Field 35) of an employee can be found on the latest Standard Form 50 (SF50) for appointment, conversion, extension, promotion, demotion, or reassignment. The following appointment status and FLSA category outlines the ability to earn compensatory time:

a. Title 32 Technicians / FLSA: Exempt: Are only authorized compensatory time IAW 32 U.S.C. 709. Overtime pay is not authorized.

b. Title 5 Employees / FLSA: Exempt:

(1) Employees that have a rate of pay that exceeds General Schedule 10, Step 10 of the general schedule are only authorized to earn compensatory time.

(2) Employees that have a rate of pay that equal or is less than General Schedule 10, Step 10 of the general schedule are authorized to earn compensatory time only after the supervisor offers overtime pay and the employee requests compensatory time in lieu of overtime pay. Supervisors cannot direct employees to choose compensatory time instead of overtime pay. Refer to [Enclosure B](#) for instructions on overtime pay.

c. Title 5 Employees / FLSA: Non-exempt: Supervisors must offer overtime pay first, however, the employee may select compensatory time in lieu of overtime pay. Supervisors cannot direct employees to choose compensatory time instead of overtime pay. Refer to [Enclosure B](#) for instructions on overtime pay.

3. Requesting Compensatory Time. Supervisors and employees must use an NGB Form 46-14, "Request, Authorization, Report of Compensatory Time, Travel Compensatory Time, Holiday Premium and Overtime" to request compensatory time. All NGB Form 46-14 requests must clearly state the reason work involved could not be performed during regular working hours.

a. The supervisor and employee will follow local leave requesting procedures when requesting approval to earn compensatory time. Compensatory time approval must be obtained in advance before additional hours of work begins. Employees and supervisors must document approval of compensatory time as soon as possible if advance approval is not feasible due to critical mission requirements (short notice).

b. The employee must make the appropriate entries in the Automated Time Attendance and Production System (ATAAPS) and follow established procedures provided by USPFO (CA Army National Guard employees) or Wing Comptroller (CA Air National Guard employees) on retaining the NGB Form 46-14 as a substantiating document for the compensatory time.

4. Forfeit Compensatory Time. The supervisor must ensure that an employee has an opportunity to use, rather than forfeit, compensatory time. Compensatory time off must be used within 26 pay periods from the pay period in which it was earned. Unused compensatory time will forfeit as follows:

a. Title 32 Technicians: Forfeit the unused compensatory time off.

b. Title 5 Employees: Receive payment for the unused compensatory time off at the overtime rate in effect when earned. Refer to 5 CFR 550, Subpart A – Premium Pay on computation of overtime pay and pay limitations. This paragraph also applies if the employee transfers to another agency or separates from Federal service before the expiration of the 26 pay period time limit.

ENCLOSURE B
OVERTIME PAY

1. Overtime Pay. This enclosure establishes the control and use of overtime pay within the California National Guard.

a. Overtime pay is earned for an equal amount of time spent in irregular or occasional overtime work in excess of the employee's regular work hours during employee's duty day (i.e., for work performed before or after employee's normal duty day) or in excess of 40 hours in a workweek.

b. Employees must have supervisor concurrence before working overtime.

c. Supervisors are responsible for approving and minimizing overtime requests by assuring that sufficient numbers and types of personnel are scheduled to be present to carry out operations in an efficient and economical manner.

d. Supervisors must reference Collective Bargaining Agreements (CBA) requirements when scheduling overtime time for employees that are covered by the CBA.

2. Applicability. The ability to earn overtime pay depends on the employee's appointment status and Fair Labor Standards Act (FLSA) category. The appointment status (Field 5-C or 5-E) and FLSA category (Field 35) of an employee can be found on the latest Standard Form 50 (SF50) for appointment, conversion, extension, promotion, demotion, or reassignment. The following appointment status and FLSA category outlines the ability to earn overtime pay:

a. Title 32 Technicians / FLSA: Exempt: Are not authorized to earn overtime pay. Technicians can earn compensatory time. Refer to [Enclosure A](#) for instructions on compensatory time.

b. Title 5 Employees / FLSA: Exempt:

(1) Employees that have a rate of pay that exceeds General Schedule 10, Step 10 of the general schedule are not authorized to earn overtime pay, but instead can earn compensatory time. Refer to [Enclosure A](#) for instructions on compensatory time.

(2) Employees that have a rate of pay that equal or is less than General Schedule 10, Step 10 of the general schedule are authorized to earn overtime pay. Employees may request compensatory time in lieu of overtime pay after

the supervisor offers overtime pay. Supervisors cannot direct employees to choose compensatory time instead of overtime pay.

c. Title 5 Employees / FLSA: Non-Exempt: Are authorized overtime pay. Employees may request compensatory time in lieu of overtime pay. Supervisors cannot direct employees to choose compensatory time instead of overtime pay.

3. Requesting Overtime Pay. The supervisor and employee must use NGB Form 46-14, "Request, Authorization, Report of Compensatory Time, Travel Compensatory Time, Holiday Premium and Overtime" to request overtime pay. All overtime pay requests must clearly state the reason work involved could not be performed during regular working hours.

a. The supervisor and employee will follow local leave requesting procedures when requesting approval to earn overtime pay. Overtime pay approval must be obtained in advance before additional hours of work begins. Employees and supervisors must document approval of overtime as soon as possible if advance approval is not feasible due to critical mission requirements (short notice).

(1) NGB Form 46-14 Final Approval: Overtime must be tightly controlled and monitored to ensure that overtime compensation remains within the budgetary ceilings established by CA Army National Guard (CAARNG) and CA Air National Guard (CAANG).

(a) All CAARNG employees' overtime requests require Human Resources Office (HRO) final approval. Supervisors must submit NGB Form 46-14 to HRO-Management Analyst at least four (4) calendar days in advance.

(b) All CAANG employees' overtime request require Wing Comptroller final approval. Supervisors will follow local Wing approval procedures.

b. The employee must make the appropriate entries in the Automated Time Attendance and Production System (ATAAPS) and follow established procedures provided by USPFO (CAARNG employees) or Wing Comptroller (CAANG employees) on retaining the NGB Form 46-14 as a substantiating document for the compensatory time.

4. Overtime Computation. Refer to Title 5 CFR 550, Subpart A – Premium Pay on computation of overtime pay and premium pay limitation.

ENCLOSURE C
COMPENSATORY TIME OFF FOR TRAVEL

1. Compensatory Time Off for Travel: This enclosure establishes the control and use of compensatory time off for travel within the California National Guard. This enclosure does not cover compensatory time earned while at the official duty station. Refer to [Enclosure A](#), for compensatory time earned or [Enclosure B](#), for overtime pay while not traveling.

a. Compensatory time off for travel is earned by an employee for time spent in a travel status away from the employee's official duty station and traveling outside of the employee's regularly scheduled working hours, when such time is not otherwise compensable.

b. Employees must earn compensatory time (regular) or overtime pay if the employee is ordered to work during travel hours outside of the employee's regularly scheduled working hours. Refer to [Enclosure A](#), for compensatory time earned or [Enclosure B](#), for overtime pay.

2. Applicability: All Title 5 employees and Title 32 technician are authorized to earn compensatory time off while traveling.

3. Creditable Travel: For travel hours to be creditable, travel must be officially authorized by the employee's supervisor; and travel is required away from the official duty station; and travel hours are outside of the employee's regularly scheduled working hours. Refer to paragraph 5 for creditable travel examples.

a. For the purpose of compensatory time off for travel, time in a travel status outside the employee's regularly scheduled working hours includes:

(1) Time spent traveling between the official duty station and a temporary duty station.

(2) Time spent traveling between home of record and a temporary duty station outside the limits of the employee's official duty station. However, the normal home-to-work or work-to-home commuting time must be deducted from the travel hours earned.

(3) Time spent traveling between two temporary duty stations.

(4) The "usual waiting time" preceding or interrupting such travel (e.g. waiting at an airport or train station prior to departure). For the purposes of "usual waiting time," anything exceeding three (3) hours will not be considered time in a travel status as the employee is free to rest, sleep, or otherwise use

the time for his or her own purposes. However, supervisors can grant exceptions when employees provide documentation or other evidence of a longer waiting time beyond the three (3) hours (e.g. canceled flights that require waiting in line to make alternate arrangements may be creditable for the extended waiting time).

b. For the purpose of compensatory time off for travel, time in a travel status does not include:

(1) Time spent traveling to the temporary duty station during employee's regularly scheduled working hours.

(2) Time spent traveling directly to the temporary duty station or transportation terminal within the limits of the employee's official duty station. Such time is considered equivalent to normal home-to-work/work-to-home commuting time.

(3) Time in a travel status ends when the employee arrives at the temporary duty worksite or their temporary lodging, wherever the employee arrives first.

4. Requesting Compensatory Time Off for Travel: The supervisor and employee must use NGB Form 46-14, "Request, Authorization, Report of Compensatory Time, Travel Compensatory Time, Holiday Premium and Overtime" to request compensatory time off for travel.

a. The supervisor and employee will follow local leave requesting procedures when requesting approval to earn compensatory time off for travel. Compensatory time off for travel approval must be obtained in advance before travel begins. Employees and supervisors must document approval of compensatory time off for travel as soon as possible if advance approval is not feasible due to critical mission requirements (short notice).

b. The employee must make the appropriate entries in the Automated Time Attendance and Production System (ATAAPS) and follow established procedures provided by USPFO (Army National Guard employees) or Wing Comptroller (Air National Guard employees) on retaining the NGB Form 46-14 as a substantiating document for the compensatory time.

5. Forfeit Compensatory Time Off for Travel. The supervisor must ensure that an employee has an opportunity to use, rather than forfeit, compensatory time off for travel. For Title 5 employees and Title 32 technicians, compensatory time off for travel is forfeited if not used by the end of the 26th pay period after the pay period during which it was earned; or upon voluntary transfer to

another agency; or upon separation from the federal government. Exceptions to this paragraph is as follows:

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 to employment with the California National Guard 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 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 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 will be forfeited.

(2) If an employee fails to use their compensatory time off for travel by 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 employee's supervisor may send a request to the Human Resources Office to extend the time limit up to an additional 26 pay periods.

6. Compensatory Time Off for Travel (Examples): For additional examples, go to Office Personnel Management website: www.opm.gov

Example 1: Travel to a temporary duty station on a workday

From home to business meeting

6:00 - 7:00 a.m.	7:00 - 8:00 a.m.	8:00 - 8:30 a.m.	8:30 - 11:30 a.m.	11:30 a.m. - 12:30 p.m.
Drive to airport	Wait at airport	Wait at airport	Plane departs/lands	Drive to worksite
<i>Noncreditable travel time</i>	<i>Creditable travel time</i>	<i>Regular working hours</i>	<i>Regular working hours</i>	<i>Regular working hours</i>

From business meeting to home

4:30 - 5:30 p.m.	5:30 - 7:00 p.m.	7:00 - 10:00 p.m.	10:00 - 11:00 p.m.
Drive to airport	Wait at airport	Plane departs/lands	Drive home
<i>Creditable travel time</i>	<i>Creditable travel time</i>	<i>Creditable travel time</i>	<i>Noncreditable travel time</i>

On a workday, an employee is required to travel from home to a temporary duty station for an afternoon meeting. The employee's regular working hours are 8:00 a.m. to 4:30 p.m. In total, the employee spends 13 hours (6:00 a.m.

to 12:30 p.m. and 4:30 p.m. to 11:00 p.m.) traveling to and from the worksite. However, the time between 8:00 a.m. and 12:30 p.m. is compensable as part of the employee's regular working hours. Also, an employee's time spent traveling outside of regular working hours to or from a transportation terminal (e.g., an airport or train station) within the limits of his or her official duty station is considered to be equivalent to commuting time and is not creditable travel time (See 5 CFR 550.1404(d)). In this case, the employee spends 2 hours traveling to and from an airport within the limits of his official duty station.

In this example, the employee's compensatory time off for travel entitlement is as follows:

Total travel time	13 hours
(minus) Travel time within regular working hours	4.5 hours
(minus) Travel to/from airport within limits of official duty station	2 hours
Compensatory time off for travel	6.5 hours

Example 2: Travel to a temporary duty station on a nonworkday

Travel from home to a hotel on a Sunday

5:00 - 6:00 p.m.	6:00 - 7:30 p.m.	7:30 - 10:00 p.m.	10:00 - 10:30 p.m.
Drive to airport	Wait at airport	Plane departs/lands	Drive to hotel
<i>Noncreditable travel time</i>	<i>Creditable travel time</i>	<i>Creditable travel time</i>	<i>Creditable travel time</i>

Travel from a hotel to home on the following Saturday

6:30 - 7:00 a.m.	7:00 - 11:00 a.m.	11:00 a.m. - 1:00 p.m.	1:00 - 2:00 p.m.
Drive to airport	Wait at airport-4 hour delay	Plane departs/lands	Drive home
<i>Creditable travel time</i>	<i>Partially creditable travel time*</i>	<i>Creditable travel time</i>	<i>Noncreditable travel time</i>

An employee is required to travel to a temporary duty station for a week-long conference. The employee's regular working hours are 8:00 a.m. to 4:30 p.m., Monday through Friday. Because the conference begins early Monday morning, the employee travels to a hotel at the temporary duty station the Sunday evening before the conference. The conference is scheduled to continue into the evening on Friday, so the employee returns home on Saturday morning. In total, the employee spends 13 hours (5:00 p.m. to 10:30

p.m. on Sunday and 6:30 a.m. to 2:00 p.m. on the following Saturday) traveling to and from the conference. However, the hour the employee spends on Sunday traveling to the airport and the hour the employee spends on Saturday traveling from the airport within the limits of her official duty station is considered equivalent to commuting time and is not creditable time in a travel status.(See 5 CFR 551.442 and 5 CFR 550.112)

*The agency's compensatory time off for travel policy allows up to 3 hours of creditable waiting time at a transportation terminal. Therefore, only the time from 7:00 to 8:30 a.m. is creditable as "usual waiting time." (See 5 CFR 550.1404(b)(1).) The time from 8:30 to 10:30 a.m. is considered "extended waiting time" and is not creditable (See 5 CFR 550.1404(b)(2)).

In this example, the employee's compensatory time off for travel entitlement is as follows:

Total travel time	13 hours
(<i>minus</i>) Travel to/from airport within limits of official duty station	2 hours
(<i>minus</i>) Extended waiting time	1 hours
Compensatory time off for travel	12 hours

ENCLOSURE GL
GLOSSARY

1. Fair Labor Standards Act (FLSA). The FLSA is a federal law which establishes minimum wage, overtime pay eligibility, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in federal, state, and local governments. Under the FLSA, employees are entitled to wages at or above the federal minimum wage and must be paid time and a half (“overtime”) for work after 40 hours in any administrative workweek.
2. FLSA Exemption. For the California National Guard, Title 32 employees are not covered by the FLSA. For Title 5 employees, their position is governed by the FLSA and are either “exempt” or “nonexempt”. Nonexempt employees are entitled to overtime pay under FLSA rules. Exempt employees are entitled to overtime under Title 5 rules. For additional information visit <http://www.wagehour.dol.gov>.
3. Overtime work. Overtime hours are hours of work that are ordered or approved (or are “suffered or permitted”) and are performed by an employee in excess of 8 hours in a day or 40 hours in a workweek.
4. Compensatory Time (regular). Defined as time off with pay in lieu of overtime pay for irregular or occasional overtime work. Compensatory time may not be accrued for overtime performed while in a training status, such as, service schools, Professional Education Center (PEC) courses, Office of Personnel Management Courses, etc.
5. Compensatory Time Off for Travel. Defined as time off for time spent in a travel status away from the employee's official duty station. If the travel is performed outside of the member’s regularly scheduled workweek and hours, it is normally compensated as compensatory time for travel. Certain conditions allow overtime pay for Title 5 employees.
6. Mission Critical. Any function that would or can compromise or degrade the effectiveness in achieving the agency’s core mission.

ENCLOSURE R
REFERENCES

1. 5 CFR 550, Subpart A, "Premium Pay"
2. 5 CFR 550.111 – 550.114, "Overtime Pay"
3. 5 CFR 550.114, "Compensatory Time Off"
4. 5 CFR 550, Subpart N, "Compensatory Time Off for Travel"
5. Title 32 United States Code (U.S.C.) Section 709, "Technicians: Employment, Use, Status"
6. Department of Defense Instruction 1400.25-V550, March 20, 2015, DoD Civilian Personnel Management System: Pay Administration (General).
7. Chief National Guard Bureau Instruction (CNGBI) 1400.25 Vol. 630, 06 August 2018, "National Guard Technician Absence and leave Program"
8. Chief National Guard Bureau Notice (CNGBN) 1408, 06 July 2018, "Technician Personnel Interim Conversion Overtime and Compensatory Time Policy"
9. California National Guard (CNG) Fulltime Personnel Regulation (FPR) 532, 1 November 2006, "Premium Pay and Differentials"
10. For bargaining unit eligible Army T5 and T32 employees: Agreement between The Adjutant General of California and the Laborers International Union of North America (LIUNA)
11. For bargaining unit eligible Air T5 and T32 employees: Agreement between Association of Civilian Technicians (ACT) and The California Military Department.
12. For bargaining unit eligible Air T5 and T32 employees at the 195th Wing: Agreement between National Association of Government Employees (NAGE) and The California Air National Guard.