

Compensatory Time Off

Non-exempt employees represented by CSUEU can carry over 120 hours of CTO from one calendar year to the next. If more than 120 hours are carried over, the employee shall be paid for the excess at the overtime rate appropriate to the individual. Obviously, departments want to avoid paying overtime wages whenever possible. This survival tip should clarify most questions about CTO.

CTO is the CSU's method of compensating for overtime worked without having to pay additional wages. The current contract language is as follows

Compensatory Time Off (CTO)

19.8 Requests for scheduling CTO shall be submitted to the appropriate administrator at least seven (7) days in advance. CTO shall be scheduled and taken only as authorized by the appropriate administrator.

19.9 When possible, the scheduling of earned CTO shall be by mutual agreement of the employee and the appropriate administrator. **Upon reasonable notice to the employee, the appropriate administrator may direct the employee to take earned CTO.**

19.10 CTO should be taken within the year it is earned whenever possible. **If an employee has been unable to take his/her CTO and has a CTO balance in excess of one hundred twenty (120) hours as of December 31, he/she shall be paid in cash for all hours in excess of one hundred twenty (120).** Such payment shall be made by February 1 of each year.

19.11 Upon request of the employee, the appropriate administrator shall provide an accounting of the employee's CTO balance.

19.12 When an employee is separated from service, he/she is entitled to a lump-sum payment for any earned CTO by reason of previous overtime worked.

19.13 Overtime eligibility and overtime rates shall be by classification. Such eligibility and overtime rates by classification are listed in Appendix C and incorporated by reference.

Follow this link to Appendix C; job classifications listed under Section IV OVERTIME are exempt and do not qualify for overtime and therefore, are not given CTO in exchange for overtime worked:

http://www.calcsea.org/csu/bargaining/contract/2002-2006/contract-30.asp#P2610_217977

One question that has come up recently is based on this particular situation. An employee has accumulated many hours in excess of the 120 hour limit by the first of December. The supervisor has scheduled the employee to take CTO for the remainder of working days in the calendar year, but by Dec. 31, the employee will still have more than 120 hours of CTO on the books. How will the excess hours be handled? By contract, the employee must be compensated by payment for the excess hours. There's no alternative and no way around the situation. This is why HR and supervisors look so carefully at overtime and CTO records towards the end of each year to be sure as little cash as possible will be spent on overtime. It is also why some of us are being told to take CTO now.

Another question that has come up: does the employee have the choice to be compensated in cash or in CTO for overtime credit? Usually, no: the CSU retains the right to make that choice, although I have heard of instances where the employee is given the choice (see 19.3 below). Be aware, however, that additional wages are subject to a higher than normal tax withholdings rate (somewhere around 40%) and that payment may be deferred until Feb. 1 of the year following the year in which you earned the pay.

Finally, here's the contract language which defines overtime:

Overtime Compensation

19.1 Overtime is defined as authorized time worked in excess of forty (40) hours in a seven (7) consecutive twenty-four (24) hour period beginning at 12:01 a.m. on Sunday and ending at 12:00 midnight the following Saturday. For employees assigned to a 9/80 work schedule, overtime is defined as authorized time worked in excess of forty (40) hours in seven (7) consecutive twenty-four (24) hour periods beginning at 12:01 p.m. on Friday and ending at 12:00 p.m. (noon) on the following Friday.

19.2 For the purposes of administering a 3/12 work schedule, overtime shall be defined as time worked in excess of eighty (80) hours within a fourteen (14) day schedule.

19.3 Overtime shall be compensated in cash or in compensatory time off (CTO) as determined by the President and shall be paid only as provided in Appendix C of this Agreement, consistent with the provisions of the Fair Labor Standards Act (FLSA). The salary stipend (provision 20.38) shall be included in base wages for determining compensation for overtime earned during the stipend period. Employees eligible to receive overtime shall be compensated at the rate of one and one-half times their hourly straight time rate.

19.4 Overtime shall be authorized and assigned by the appropriate administrator.

19.5 Paid holiday, paid sick leave, and paid vacation time shall be counted as time worked for purposes of this Article.

19.6 The only official methods for the computation and accumulation of overtime are those provided in this Article. The appropriate administrator shall endeavor to equalize the overtime work among all qualified employees who have expressed interest in overtime work. Advance notice of overtime opportunities shall be provided to all qualified employees whenever possible. An employee shall be required to work overtime if no qualified volunteer is available.

19.7 All employees shall be classified as either exempt or non-exempt for purposes of compliance with the FLSA requirements for payment of overtime or compensatory time off (CTO).

Another situation which might develop is a non-exempt employee takes vacation, holiday, or sick leave during part of a week--say 16 hours. He/she then works 32 hours that same week. Is any of the time worked counted as overtime? Yes, per Article 19.5, 8 hours would be counted as overtime if all other conditions for the employee's eligibility for CTO are met, the employee would accumulate 12 hours of CTO for that week.

As always, don't hesitate to contact an officer of Chapter 310 if you need further clarification.