

§ 5543. Compensatory time off

(a) The head of an agency may—

(1) on request of an employee, grant the employee compensatory time off from his scheduled tour of duty instead of payment under section 5542 or section 7 of the Fair Labor Standards Act of 1938 for an equal amount of time spent in irregular or occasional overtime work; and

(2) provide that an employee whose rate of basic pay is in excess of the maximum rate of basic pay for GS-10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law) shall be granted compensatory time off from his scheduled tour of duty equal to the amount of time spent in irregular or occasional overtime work instead of being paid for that work under section 5542 of this title.

(b) The head of an agency may, on request of an employee, grant the employee compensatory time off from the employee's scheduled tour of duty instead of payment under section 5544 or section 7 of the Fair Labor Standards Act of 1938 for an equal amount of time spent in irregular or occasional overtime work. An agency head may not require an employee to be compensated for overtime work with an equivalent amount of compensatory time-off from the employee's tour of duty.

(c) The Architect of the Capitol may grant an employee paid on an annual basis compensatory time off from duty instead of overtime pay for overtime work.

(d)(1) The appropriate Secretary may, on request of an employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c), grant such employee compensatory time off from duty instead of overtime pay for overtime work.

(2) For purposes of this subsection, the term “appropriate Secretary” means—

(A) with respect to an employee of a nonappropriated fund instrumentality of the Department of Defense, the Secretary of Defense; and

(B) with respect to an employee of a nonappropriated fund instrumentality of the Coast Guard, the Secretary of the Executive department in which it is operating.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 486; Pub. L. 90-83, §1(25), Sept. 11, 1967, 81 Stat. 200; Pub. L. 101-509, title V, §529 [title I, §101(b)(3)(E)], title II, §210(2)], Nov. 5, 1990, 104 Stat. 1427, 1439, 1460; Pub. L. 104-201, div. A, title XVI, §1610(a), Sept. 23, 1996, 110 Stat. 2738; Pub. L. 109-163, div. A, title VI, §674, Jan. 6, 2006, 119 Stat. 3319.)

HISTORICAL AND REVISION NOTES
1966 ACT

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 912.	June 30, 1945, ch. 212, §202, 59 Stat. 297. May 24, 1946, ch. 270, §9, 60 Stat. 218. Sept. 1, 1954, ch. 1208, §204, 68 Stat. 1109.

In subsection (a), the words “head of an agency” are substituted for “head of any department, independent establishment, or agency, including Government-owned or controlled corporations, or of the municipal government of the District of Columbia, or the head of any legislative or judicial agency to which this subchapter applies” because of the definition of “agency” and the application stated in section 5541.

In subsection (a)(1), the word “officer” is omitted as included in “employee”.

In subsection (a)(2), the words “at his own discretion” are omitted as unnecessary in view of the permissive nature of the authority. The word “officer” is omitted as included in “employee”. The word “scheduled” is omitted since section 603 of the Act of Oct. 11, 1962, Pub. L. 87-793, 76 Stat. 847, eliminated the necessity of referring to rates as scheduled or longevity. Reference to the “Classification Act of 1949, as amended” is omitted as unnecessary.

In subsection (b), the words “in his discretion” are omitted as unnecessary in view of the permissive nature of the authority. The words “overtime work” are substituted for “any work in excess of forty hours in any regularly scheduled administrative workweek” because of the definition of “overtime work” in section 5542(a).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

<i>Section of title 5</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
5543(a)(2) ...	5 App.: 912.	July 18, 1966, Pub. L. 89-504, §404(b), 80 Stat. 297.

Editorial Notes

REFERENCES IN TEXT

Section 7 of the Fair Labor Standards Act of 1938, referred to in subsecs. (a)(1) and (b), is classified to section 207 of Title 29, Labor.

GS-10, referred to in subsec. (a)(2), is contained in the General Schedule which is set out under section 5332 of this title.

AMENDMENTS

2006—Subsec. (d). Pub. L. 109-163 added subsec. (d).

1996—Subsecs. (b), (c). Pub. L. 104-201 added subsec. (b) and redesignated former subsec. (b) as (c).

1990—Subsec. (a)(1). Pub. L. 101-509, §529 [title II, §210(2)], inserted “under section 5542 or section 7 of the Fair Labor Standards Act of 1938” after “payment”.

Subsec. (a)(2). Pub. L. 101-509, §529 [title I, §101(b)(3)(E)], inserted “(including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law)” after “GS-10”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as a note under section 5301 of this title.

§ 5544. Wage-board overtime and Sunday rates; computation

(a) An employee whose pay is fixed and adjusted from time to time in accordance with prevailing rates under section 5343 or 5349 of this title, or by a wage board or similar administrative authority serving the same purpose, is enti-