

# Montgomery County Board of Commissioners

## Ordinance 2020 – 39

### Amending Employee Handbook Terms Regarding Overtime

**Whereas**, the Board of Commissioners periodically reviews the Employee Handbook and amends the Handbook when necessary; and

**Whereas**, questions have been raised by the Director of the Central Communications Center regarding whether dispatchers and other employees of the Center are administrative employees or police officers under Section 2.03 of the Employee Handbook, which defines, consistent with the Fair Labor Standards Act (FLSA), the compensation periods used to determine an entitlement to overtime and compensatory time; and

**Whereas**, under the FLSA, dispatchers and other non-exempt employees of an Emergency 911 call center are treated as administrative employees rather than police officers; and

**Whereas**, in order to eliminate any confusion as to the applicable compensation period applicable to dispatchers and other non-exempt employees of the Central Communications Center, the Board of Commissioners finds that Section 2.03 should be amended; and

**Whereas**, the Sheriff has also notified that he will not award compensatory time because of its adverse effect on the operations of his Department, and, therefore, the Board of Commissioners find that this Section should also be amended to clarify the Sheriff's policies in this regard; and

Whereas, the Board of Commissioners finds that other technical changes should be made to Section 2.03 in order ease the administration of this section:

It is, therefore, ordained that Section 2.03 of the Employee Handbook, which is Appendix A to Section 34 of Title III of the Montgomery County Code is hereby amended to read as follows:

## **“2.03 OVERTIME**

**2.03.1 Administrative Employees:** The Department Head or Supervisor shall establish the hours of work for each employee under his/her supervision which shall be determined in accordance with the needs of the County services, and which shall take into account the reasonable needs of the public, who may be required to do business with various County departments. Supervisors shall establish the hours of work for each employee under his/her supervision. If a non-exempt employee’s regular work week consists of 37.5 hours, and the employee is then authorized work greater than 37.5 hours, but less than 40 hours each work week, any time worked which is more than 37.5 hour but not more than 40 hours during a work week is known as “gap time.” Non-exempt employees who work gap time will be paid at their normal hourly rate for the hours worked or awarded compensatory time at a rate of one hour of compensatory time for each hour of gap time, subject to the election of employees not to accept compensatory time, as provided for in Subsection 2.03.4 of this Section, as determined by the supervisors. If a non-exempt employee works more than 40 hours in one week, the employee is entitled to either overtime compensation or compensatory time, subject to the election of employees not to accept compensatory time, as provided for in Subsection 2.03.4 of this Section. The overtime compensation or award of compensatory time is determined by multiplying the hours exceeding forty (40) hours in the workweek by 1.5. Overtime requests shall use the County overtime form. Exempt employees are not eligible for gap time compensation, overtime compensation or compensatory time.

**2.03.2 Police Officers:** The Sheriff shall establish the hours of work for each police officer. Authorized overtime for all non-exempt police officers is time worked in excess of 84 hours in a 14-day period. Non-exempt police officers who work more than 84 hours in a 14-day period will be paid overtime. The standing order of the Sheriff is that no compensatory time is awarded for

hours worked in excess of 84 hours in a 14-day period. The overtime compensation is determined by multiplying the hours exceeding 84 hours in a 14-day period by 1.5.

**2.03.3 Central Communications Center Employees:** The Director of the Central Communications Center will establish the hours of work for each employee under her supervision. If a non-exempt employee works more than 40 hours in a work week, the employee will be entitled to an award of overtime or compensatory time, subject to the election of employees to not accept compensatory time, as provided for in Subsection 2.03.4 of this Section. The overtime compensation or award of compensatory time is determined by multiplying the hours exceeding 40 hours worked in the work week pay period by 1.5. Exempt employees are not eligible for overtime compensation or compensatory time.

#### **2.03.4 Election by Employees to Decline Compensatory Time.**

**2.03.4.1 Administrative Employees:** On or before January 1<sup>st</sup> of each year, the Board of Commissioners shall provide to all non-exempt administrative employees a Notice of Overtime Compensation (hereinafter the "Notice"). The Notice shall advise eligible employees that compensatory time will be provided for all authorized overtime in lieu of paid overtime. The Notice shall further advise eligible employees that their consent to receive compensatory time in lieu of paid overtime will be assumed, as a condition of employment, unless the employee provides written notice to the contrary to the Board of Commissioners. This Notice is Form A-4 in the Appendix.

**2.03.4.2 Police Officers:** No election to decline compensatory time is necessary for Police Officer because the Sheriff does not award compensatory time.

**2.03.4.3 Central Communications Center Employees:** On or before January 1<sup>st</sup> of each year, the Director of the Central Communications Center will provide to all non-exempt employees a Notice of Overtime Compensation (hereinafter the "Notice"). The Notice will advise eligible non-exempt employees that compensatory time will be provided in lieu of paid overtime. The Notice will further advise these

employees that their consent to receive compensatory time in lieu of paid overtime will be assumed, as a condition of employment, unless the employee provides written notice to the contrary is delivered to the Director. This Notice is Form A-4 in the Appendix.

**2.03.5 Hours Counting Toward Overtime and Compensatory Time:**

For purposes of a determination of the number of hours worked when calculating eligibility for overtime or compensatory time, the following hours count as “hours worked:”

1. hours worked;
2. vacation leave;
3. sick leave;
4. bereavement leave;
5. jury duty leave;
6. holiday leave; and,
7. paid-time-off (beginning January 1, 2017).

The following hours do not count as “hours worked:”

1. compensatory time used;
2. Family Medical Act Leave;
3. military leave; and,
4. disability leave (which is not taken as sick leave or PTO leave)
5. pandemic leave;
6. Families First Coronavirus Recovery Act emergency sick leave;
7. Emergency Family Medical Leave Act leave.

For non-exempt police officers, the following additional rules apply:

**2.03.5.1 Substitution Time:** When an officer substitutes time with another officer by mutual agreement, the time worked by the substitute counts;

**2.03.5.2 On-Call Duty:** Time spent on-call does not count. If the on-call officer is called to duty and works, the time actually worked counts;

**2.03.5.3 Training:** Time spent at the police academy in training or other training, and travel to and from such training, counts. Time spent by officers at the academy or other training which is outside of training or class, including but not limited to time sleeping or free time, does not count;

**2.03.5.4 Travel to and from Work:** Time spent traveling to and from an officer's home to the police station or duty area does not count unless the officer has marked on duty and is discharging his or her official duties. Officers may not mark on duty outside of the County limits unless they are engaged in law enforcement activities. If the officer is required to travel to places other than the police station or duty area for work, the travel time counts to the extent that it exceeds the officer's normal travel time from home to the police station or duty area.

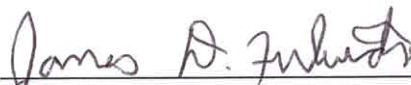
**2.03.6 Compensatory Time Limitation and Carry Forward:** Accrued compensatory time may be accumulated up to 40 hours for administrative employees and 80 hours for employees of the Central Communications Center. Accrued compensatory time should be used by the end of each calendar year. If work demands prevent the use of accrued compensatory time by the end of the calendar year, employees may carry unused compensatory time to the next calendar year, but supervisors should schedule work in the following year in a manner to use the compensatory time carried over within the first six months of the next calendar year. All accrued compensatory time at the time of retirement, resignation, promotion to an exempt position or termination will be paid in the next payroll cycle."


**It is further ordained** that all provisions of the Employee Handbook, which are not expressly modified by the two new sections added by this ordinance will remain in full force and effect.


**It is further ordained** that this ordinance is effective upon adoption.

Adopted November 23, 2020.


**Montgomery County  
Board of Commissioners:**

  
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James D. Fulwider, President

  
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John Frey, Vice President

  
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Dan Guard, Member

Attest:

  
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~~Jennifer Andel, Auditor~~ Mindy Byers, Chief Deputy Auditor