

**AGREEMENT ON COMPENSATORY TIME, ELECTRONIC  
COMMUNICATIONS, AND PART-TIME FOR THE POPA BARGAINING UNIT**

The Patent and Trademark Office and POPA, working through partnership, have developed the following operating procedures for authorizing approval of compensatory time in lieu of payment for overtime, for the use of electronic communications, and for part-time employment. This agreement applies to all members of the POPA bargaining unit. Compensatory time will be available for employees whether or not paid overtime is available to those in their employment position.

1. This agreement will continue indefinitely, until such time as the PTO may propose changes to the agreement under the existing mid-term bargaining practice or the agreement is superseded by an article or articles of a subsequent collective bargaining agreement between POPA and PTO.

**COMPENSATORY TIME**

2. An employee is, as always, responsible for returning telephone messages promptly.
3. Since compensatory time is an alternative form of compensation to paid overtime, the overtime policies established for professional employees under the Assistant Commissioner for Patents as stated in the memorandum dated March 26, 1990, and signed by James E. Denny will apply to compensatory time. However for the purposes of earning compensatory time, fully satisfactory performance will be based on an employee's cumulative most recent four full quarters of work contrary to item (6) of that memorandum for non-first year employees. No Group specific restrictions will be applied to earning compensatory time contrary to item (7) of that memorandum.
4. This compensatory time program contains no waiver of due dates. The employee is responsible for making arrangements to meet established due dates or obtaining adjustments as allowed by the Supervisory Patent Examiner (SPE).
5. An employee cannot carry forward more than a cumulative of 80 hours of compensatory time including all types, except religious compensatory time, from one pay period to the next.
6. Employees will be limited to earning no more than 140 hours of all types of compensatory time per fiscal year, excluding those hours earned in the maternity/paternity and religious compensatory time programs.
7. This program covers full-time and part-time employees in the bargaining unit. Compensatory time may be earned in accordance with the regulations governing the earning of overtime. Part-time employees may earn compensatory time only for hours of work in excess of scheduled 8, 9, 10 hours a day, or 40 hours in a week. Further, a part-time employee

cannot carry forward more than a pro-rata share of 80 hours of compensatory time of any type, excluding religious compensatory time, from one pay period to the next. Part-time employees will be limited to earning a pro-rata share of 140 hours of compensatory time per fiscal year, excluding those hours earned under the maternity-paternity policy and the religious compensatory regulation. The pro-rata share will be determined by dividing the number of part-time employee's regularly scheduled hours of work by forty hours.

8. The use of compensatory time will follow the same guidelines as annual leave in that the use of compensatory time must be approved in advance except when the government is on unscheduled leave.
9. Consistent with the needs of the Office and in accordance with law and regulation, no request for earning compensatory time shall be unreasonably denied. No request for using compensatory time shall be denied if, at the time of the request, the employee (1) has no interviews or meetings scheduled for the leave period, (2) is under no duty to respond during the leave period to an individual who is under a running statutory time constraint, or (3) makes appropriate arrangements for such interviews, meetings and/or communications. Compensatory time off will be deducted from a bargaining unit member's production time for the bi-weekly period in which the time off was taken. The compensatory time worked will be added to the member's production time for the bi-weekly period in which the time was worked.
10. Compensatory time must be earned in advance of being used.
11. The same pay cap limitations that apply to paid overtime apply also to compensatory time. Compensatory time by regulation cannot be earned for the hours when holiday premium pay is authorized. This program authorizes compensatory time as an alternate to regular overtime, but does not authorize compensatory time as an alternate to holiday premium pay. That is, an employee working compensatory time on a holiday, must do so either before or after the holiday premium pay hours.
12. Compensatory time may not be earned on a day when the employee is incapacitated because of sickness, or uses leave for the entire day.
13. An employee may not earn compensatory time on any normal business day until the employee has completed his/her normal work schedule. On an employee's compressed day off, the employee may begin to earn compensatory time beginning at 6:30 a.m. The amount of compensatory time that may be earned on Saturdays and Sundays during any one bi-week is sixteen (16) hours. Exceptions to the above may only be granted by the Assistant Commissioner for Patents or his/her designee.
14. The compensatory time program may not be utilized as a means to constantly

substantially avoid accessibility on core days, i.e. Tuesday and Thursday.

15. The Assistant Commissioner for Patents or designee has the discretion and authority to ease any of the restrictions set forth in this agreement on a case by case basis or for purposes of operational needs.

#### **ELECTRONIC COMMUNICATIONS**

16. Bargaining unit members will utilize electronic mail for the purpose of both receiving work related messages or information and for responding to work related inquiries made by electronic mail, including internet electronic mail. Electronic messages will generally be reviewed at least once every workday and responded to by any appropriate means.
17. The parties acknowledge that from time to time the Office issues electronic versions of Office policies and procedures that typically contain the most up-to-date and accurate data available and that such versions are the preferred source of guidance and should be utilized.

#### **PART-TIME**

18. This program consists of two separate components: a first component, the “child-care and Eldercare component”, which is specifically designed to meet the growing demand for part-time work for parents with childcare responsibilities, and for employees with eldercare care responsibilities, i.e. parent and grandparent. There are two childcare categories, i.e. parents with a pre-school age child (one who has not yet begun first grade), and parents with a school age child (one who has not yet begun seventh grade). The second component, the “Retention Component”, is designed to enable the Office to retain experienced employees who wish to work a part-time schedule for other reasons. Within the second component, employees need not disclose their reason for working a part-time schedule.
19. Number of Participants- This program will include a maximum of 100 slots; 80 slots will be reserved for the Childcare and Eldercare Component, and 20 slots will be reserved for the Retention Component. Priority in the Childcare and Eldercare Component will go to employees with pre-school children. If the cap of 80 is reached, a parent with a preschool aged child may still convert to part-time, however there will be no openings for a “school age” and “eldercare” participant until the number of total participants goes back below 80.
20. Length of Participation - Each participant will be eligible to serve a minimum of 3 months and a maximum of 18 months in the program. Participants are eligible to reapply in 3-18 month increments so long as slots are available. When applying, each employee will specify the desired length of participation and the component of the program under which he or she is applying. At the end of the agreed upon period of part-time status, the employee shall revert to full-time

status or may reapply if slots are available. The Office shall allow earlier conversion to full-time status at an employee's request consistent with the needs of the Office.

21. Eligibility and Schedules-

- a. Within the Childcare and Eldercare Component of the program, employees will work a regular set schedule of between 32 and 64 hours per biweek ("scheduled working hours"). The regular schedule will include at least 2 days per week including at least one core day (Tuesday or Thursday). Each participant in this component will work a minimum of 4 hours and a maximum of 10 hours per day ("scheduled workday").
- b. Within the Retention Component of this program, only employees that are GS-11 and above, with at least three-years PTO experience and a current rating of record of at least fully successful and current performance of at least fully successful, will be eligible to participate. Participants in this component will work a regular set schedule of between 40 and 64 hours per biweek. The regular schedule will include at least three days per week, including both core days (Tuesday and Thursday). The participant will work a minimum of 4 hours and a maximum of 10 hours per scheduled workday. At least 4 hours of every scheduled workday must fall between the hours of 8:30 a.m. and 6:00 p.m.

22. Procedures-

- a. The Office will allocate slots in the childcare component of the program to eligible applicants based on the order of receipt of their requests by date to the appropriate Group Director's or equivalent's office. All employees currently working part-time for childcare will be automatically given slots in this program. In the event two or more requests from eligible employees are submitted on the same date and there are not enough slots for all, the service computation date will determine who gets to participate with preference going to the most senior employees.
- b. The Office will allocate slots in the retention Component to eligible applicants based on the order of receipt of their requests by date to the appropriate Group Director's or equivalent's office. In the event two or more requests from eligible employees are submitted on the same date and there are not enough slots for all, then grade, then degree of signatory authority, and then time-in-grade, with preference given to Primary Examiners, will determine who gets to participate.
- c. Requests to participate will be forwarded to Janice Howell (Director, Group 2800). The Office shall respond in writing to all requests within fourteen days. Copies of denials of requests for part-time employment shall be given to the employees and POPA.

- d. The Office shall provide POPA with a cumulative list of employees requesting part-time employment and the disposition of each on a quarterly basis.

23. Conditions-

- a. Subject to supervisory approval, an employee may be permitted to amend his/her choice of non-work days to another day or days in the same biweek, provided that such amendment will not prevent the unit to which the employee is assigned from providing its normal service to the public and the Office. No amendment can be made which results in an amended scheduled workday to fall on a holiday. Such amendment may not be used to habitually change your regular work schedule.
- b. Subject to prior supervisory approval, an employee will be eligible to schedule and work additional regular paid hours when necessary to meet the needs of the Office or the employee.
- c. Subject to prior supervisory approval, an employee may be permitted to change his/her work schedule during the program ( i.e. a change from 2 ten hour days per week to 3 nine hour days per week).
- d. To the extent allowed by law, a part-time employee will be eligible, under the same criteria applied to full-time employees to earn and use compensatory time and paid overtime.
- e. Upon conversion from a full-time to a part-time work schedule, when there is insufficient time to allow the timely completion of all items of work within their prescribed time periods or in accordance with special handling instructions , the immediate supervisor will determine the number and priority of those items of work to be completed by the employee.
- f. A part-time employee will be subject to the same performance requirements as a full-time employee.
- g. All rules and regulations applicable to other part-time employees(i.e., leave calculations, within grade increases, promotions, etc.) will apply. Agreements covering awards, participation in the signatory program, etc., also apply.
- h. Matters within the discretion of the Office, including training and education programs, and other employee activities, shall be equally available to full-time and part-time employees. However, PTO subsidized training, such as LSTAP, outside of the

employee's scheduled working hours will not normally be available to program participants. Employees may be required to temporarily convert to full-time status to attend Office provided training, including details.

- i. The Office will take into account each employee's seniority and work schedule when assigning Office space. Part-time employees at the GS-13 and above level may be required to share an office when space needs dictate. Two employees within a group may request to share an office and said request will be honored, if reasonable.
  - j. The Office will issue a memo on shared folders within fourteen days of signing of this agreement to all patent professionals which will fully describe the part-time program. The memo will include an electronic part-time application form. The shared folders memo will be updated as to slot availability every six-months during the program. The memo will include information regarding the number of available slots under the program as well as eligibility criteria, the enrollment period, and application procedures. The memo will also inform employees of the existence of a hardship part-time program separate from this program for employees with special needs based on, for example serious illness of a family member or a physical condition of the employee. The memo shall also inform employees that for the first year after birth of a child, an employee may fashion a part-time work schedule by using the leave without pay available under the PTO's maternity/paternity leave policy and the Family and Medical Leave Act (FLMA), and therefore there is no need for parents to be on this program until their child is one year old.
24. Employees currently working permanent part-time schedules and rehired annuitants on part-time schedules will not be affected by this agreement. It is the intent not to affect the status of two permanent part-time employees and one rehired annuitant presently working a part-time schedule.
25. It is agreed that on a bi-annual basis the parties will review the appropriateness of the number of slots in this program. The number of slots would be changed if there is bi-lateral agreement.

For the Office:

\_\_\_\_\_/s/\_\_\_\_\_  
Nicholas P. Godici  
Acting Assistant  
Commissioner for Patents

Date: 3/23/99

For the Union:

\_\_\_\_\_/s/\_\_\_\_\_  
Ronald J. Stern  
President, POPA

Date: 3/23/99