



## Substitutions

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

The University of Tennessee  
Municipal Technical Advisory Service  
1610 University Avenue  
Knoxville, TN 37921-6741  
865-974-0411 phone  
865-974-0423 fax  
[www.mtas.tennessee.edu](http://www.mtas.tennessee.edu)

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**Reference Number:** MTAS-1528

The FLSA provides that any individual employed in any capacity by a public agency may agree to substitute, during scheduled work hours, for another employee. Rule 29 U.S.C. § 207(p)(3) and 29 C.F.R. § 553.31(a) provides that employees may work substitution schedules where the substitution is:

1. Voluntarily undertaken and agreed to solely by the employees, and
2. Approved by the employer.

The traded time is not considered by the public agency in calculating the hours for which the employee is entitled to overtime compensation. 29 C.F.R. § 553.31(a). In effect, even though a substitution is made, "each employee will be considered to have worked his/her normal schedule." 29 U.S.C. § 207(p)(3). In addition, "the employer of the employee who performs such substitution work is not required to keep a record of the hours of substituted work." 29 U.S.C. § 211(c); 29 C.F.R. § 553.31(c).

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