



## Volunteers

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Dear Reader:

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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,

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## Volunteers

**Reference Number:** MTAS-1208

A bona fide volunteer is defined as an individual who performs hours of service for a public agency for civic, charitable, or humanitarian reasons. Moreover, a volunteer performs these services without promise, expectation, or receipt of compensation for services rendered. The overtime provisions of the FLSA prohibit an employee from volunteering to perform duties that are part of the employee's job. The prohibition also covers charitable work when the employer controls the activity. For instance, a police department cannot *compel* a police officer to perform unrelated work, such as running a booth at a fair.

An employee can volunteer to perform unrelated work when the work is not a condition of employment in employee's primary job. Examples of volunteer work might include:

- Coaching a city-sponsored youth athletic team;
- Serving as a volunteer firefighter when the two departments are distinctly separate and not part of a joint public safety department; or
- Serving as a member of a local board or committee.

29 C.F.R. § 553.103.

## Paid Employment in an Unrelated Job

**Reference Number:** MTAS-1209

Employees can work another *unrelated job* on an occasional or sporadic basis with the employer at the same or a different rate of pay without the hours of the second job counting toward overtime in the primary job. A police officer could work as a summer lifeguard at a city swimming pool, and the hours worked in that job could be separated from the hours worked with the police department for the purposes of computing overtime. 29 C.F.R. § 553.212(a).

Assuming the officer is scheduled to work 40 hours per week as a police officer and eight hours per week as a lifeguard, the eight hours worked as a lifeguard do not have to be added to the police work time to compute overtime.

The employer should be very careful to ensure that the secondary work is completely different from the work performed in the primary job and that the employee chooses to work the secondary job, rather than being assigned the duties. To retain the 207(k) exemption (work periods that are more than one week in length and a higher overtime threshold), the unrelated secondary work must be sporadic, occasional, or seasonal.

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