



OKLAHOMA Office of Management & Enterprise Services

State of Oklahoma Office of Management and Enterprise Services Policies and Procedures

Fair Labor Standards Act

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Approved: Dana Webb, as Designee of OMES Director Steve Harpe	Approval Date: 02/17/2021

Reference

Merit Rule 260:25-7-12 and 260:25-15-10 through 260:25-15-12; 29 USC 201 et. seq. (Fair Labor Standards Act) and 29 C.F.R. 541 et. seq.; and 785.15-17, 19, 27-32, 34 and 36

Policy

It is the policy of OMES to properly account for time worked and leave taken by OMES FLSA non-exempt and exempt employees who perform work in excess of the established 40-hour workweek, and to comply fully with the provisions of the Fair Labor Standard Act (FLSA).

Definitions

"Alternative work schedule" means a forty- hour work week schedule outside the regular eight-hour day work schedule. (i.e.: four ten-hour work days).

"Bona fide meal period" means a rest period where the employee must be completely relieved from duty for purposes of eating regular meals. This is not considered work time and is not compensable.

"Compensatory time" is time given to an employee in lieu of overtime pay for hours worked in excess of the established 40-hour workweek.

"Exempt" means an employee who is not covered by the minimum wage and overtime provisions of FLSA. An exempt employee must be paid at least \$23,600 per year (\$455 per week), be paid on a salary basis, and perform exempt job duties.

"Exempt job duties" consists of three typical categories. The three categories are executive, professional and administrative. Exempt executive job duties are job duties where the employee regularly supervises two or more other employees, has management as the primary duty of the position, and has some genuine input into the job status of other employees (such as hiring, firing, promotions or assignments). Exempt professional job duties are the job duties of learned professionals such as lawyers, doctors, dentists, teachers, architects and clergy. Exempt professional job duties also include the job duties of registered nurses (but not LPNs), accountants (but not bookkeepers), engineers (who have engineering degrees or the equivalent and perform work of the sort usually performed by licensed professional engineers), actuaries, scientists (but not technicians), pharmacists, and other employees who perform work requiring "advanced knowledge" similar to that historically associated with the traditional learned professions. Exempt administrative job duties are (a) office or non-manual work, which is (b) directly related to management or general business operations of the employer or the employer's customers, and (c) a primary component of which involves the exercise of independent judgment and discretion about (d) matters of significance.

"FLSA" means Fair Labor Standards Act.

"Non-exempt" means an employee who is covered by the minimum wage and overtime provisions of FLSA or is granted special non-exempt status. Non-exempt employees are entitled under the FLSA to time and one-half their "regular rate" of pay for each hour they actually work over the applicable FLSA overtime threshold in the applicable FLSA work period. Non-exempt employees may receive compensatory time in lieu of overtime pay.

"Overtime pay" is monetary compensation above a non-exempt employee's base pay for the hours he or she performs work in excess of the established 40-hour workweek.

"Workweek" means any fixed and regularly recurring period of 7 consecutive 24-hour periods. OMES employees are assigned to a Sunday through Saturday work week.

"Workweek adjustment" is a change in an employee's regularly scheduled work hours and may be made before or after the extra work is performed and in consideration of the needs of the office, unit or facility. For example, if an employee who normally works 8 a.m. to 5 p.m. Monday through Friday has worked 40 hours by 1 p.m. Friday, the supervisor may excuse the employee from work at 1 p.m. on the Friday of the workweek.

A workweek adjustment may only be made during the employee's current work week.

Implementation

OMES supervisors and employees shall make every effort to accomplish essential work within the regularly assigned workweek hours. OMES shall utilize workweek adjustments whenever possible to avoid overtime work by employees, and, where workweek adjustments are not possible, to grant employees compensatory time for overtime hours worked.

Any overtime worked by employees must be necessary to the continued effective operations of the agency and must be managed in the most efficient and economical manner possible. Supervisors are responsible for scheduling a workweek adjustment as necessary to avoid overtime pay or the accrual of compensatory time.

The supervisor may consider an employee's preference for time off in work week adjustments. However, the first consideration must be the needs of the agency. Supervisors are expected to make a reasonable effort to provide employees advance notice of any change in assigned work hours or days.

Employees shall not earn compensatory time and utilize leave within the same 40-hour workweek. The exception is employees approved for and participating in 9/80 alternative work schedules who may use leave to reach the necessary 44 hours to earn compensatory time for the "short" 36 hour week.

Compensatory time is accrued by the workweek and shall be accrued and taken in 15-minute increments.

Employees shall not use workweek adjustment or work in excess of 40 hours without prior authorization from his or her supervisor. Working in excess of 40 hours without prior authorization may subject an employee to disciplinary action.

Employees shall request and obtain prior approval of the use of compensatory time.

OMES shall not accept compensatory time from another state agency.

Non-exempt employees

May be required to work overtime if it is necessary to meet business and emergency operational requirements, prior authorization from his or her supervisor has been obtained, and workweek adjustment is not possible;

May be required at the discretion of the Division Director to accrue compensatory time in lieu of receiving overtime pay.

Compensatory time and/or overtime pay is computed at the rate of one and one-half (1.5) times the regular or base hourly pay rate for each hour worked in excess of 40 hours.

Employees shall use compensatory time prior to annual leave unless the employee is within 30 hours of the annual leave maximum accrual limit.

FLSA non-exempt employees on the regular compensatory time program (compreg) may accrue up to 240 hours of compensatory time and have up to 180 days to use this time. OMES shall pay a non-exempt employee for the balance of compensatory time accrued but not used within 180 day of accrual.

OMES shall pay an employee for the balance of accrued compensatory time upon termination of his or her OMES employment or upon the employee accepting an exempt position within the agency.

Exempt employees

Are not eligible for overtime pay;

May be required to work more than 40 hours in a workweek if it is necessary to meet business and emergency operational requirements, prior authorization from his or her supervisor has been obtained, and workweek adjustment is not possible;

Are eligible for accrual of compensatory time when work is performed in excess of 40-hours in a workweek. Compensatory time is accrued at one (1) hour of compensatory time for each hour worked in excess of 40 hours or the standard workweek.

FLSA exempt employees on the regular compensatory time program (compreg) may accrue up to 240 hours of compensatory time and have up to 180 days to use this time. Compensatory time that is not used within 180 days following accrual will expire and will be removed from timekeeping records.

FLSA exempt employees may designate whether they would prefer to use accrued compensatory time or annual leave for scheduled absences.

OMES shall not pay an FLSA exempt employee who is separating or has separated from OMES employment for the balance of unused compensatory time, unless a prevailing market condition exists that justifies such payment.

Recordkeeping and Reporting

All employees shall record time worked on their timesheet in the "Self Service" system on a weekly basis. Failure to input time may result in a delay of compensation. Falsifying the timesheet shall result in disciplinary action up to and including termination.

Supervisors are responsible for reviewing and approving assigned employees' time for accuracy on a weekly basis.

Employees must request and use leave for absences or may request approval from supervisor for workweek adjustment. Unauthorized leave will be coded as leave without pay even if leave balances are available, and may be grounds for disciplinary action up to and including discharge.

Employees shall document work performed by rounding to the nearest quarter hour.

Employees may be disciplined for excessive absenteeism.

Bona fide Meal Periods and Break Times

OMES shall provide non-exempt employees an uninterrupted meal period of at least 30 minutes. To ensure meal periods are uninterrupted, employees are encouraged not to eat at their work stations during this time. Exempt employees are encouraged to take an uninterrupted meal period of at least 30 minutes.

Breaks or short rest periods lasting 15 minutes or less are counted as time worked. OMES shall limit to two (2) breaks a day as staffing and work needs permit.

Non-exempt employees cannot "save" or combine breaks or meal periods in order to count it toward a late arrival, early departure or extended meal period.

Any exception to the bona fide meal period for non-exempt employees shall require authorization by Human Capital Management. The exception shall provide justification based on business necessity, consistent application, and comply with the FLSA.

OMES shall provide reasonable break time for an employee to express breast milk for her nursing child for 1 year after the child's birth each time such employee has need to express the milk.

OMES shall provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.

Daylight Savings Time

A shift worker on duty when standard time goes into effect may work an extra hour during his or her normal shift. Such workers shall be entitled to paid overtime, compensatory time or a workweek adjustment, as applicable.

A shift worker on duty when daylight saving time begins shall have his or her shift reduced by one (1) hour and shall be paid for an 8-hour shift. The extra hour of pay is excluded from overtime payment or the accrual of compensatory time.

Any exception to this policy must be authorized in advance by the Human Resources Department.