



**State of Oklahoma**  
**Human Capital Management Division**  
**Office of Management and Enterprise Services**  
**Policies and Procedures**  
**Fair Labor Standards Act**

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**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.

"**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.

"**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 workweek unless approved for the alternative work week schedule by the Human Capitol Management Division.

"**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 workweek.

### **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 workweek 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 work week. The exception is employees approved for and participating in 9/80 the alternative work schedules. They can 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.

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 and if workweek adjustment is not possible;

Shall not workweek adjust or work in excess of 40 hours without prior authorization from his or her supervisor. Unauthorized overtime time may subject an employee to disciplinary action.

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

An agreement or understanding regarding accrual of compensatory time in lieu of overtime arrived at between the Appointing Authority and employee shall be in place before the performance of the work.

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.

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.

An employee shall request and obtain prior approval of the use of compensatory time. Compensatory time cannot be used in advance of its accrual.

### **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 and if workweek adjustment is not possible;

Shall not workweek adjust or work in excess of 40 hours without prior authorization from his or her supervisor. Unauthorized overtime time may subject an employee to disciplinary action.

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 on the “Comp Core” plan may accrue unlimited compensatory time and have up to one year to use this time. Compensatory time that is not used within 365 days following accrual will expire and will be removed from timekeeping records.

An employee shall request and obtain prior approval of the use of compensatory time. Compensatory time cannot be used in advance of its accrual.

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 extenuating circumstances are present (i.e. the employee’s position is one in which the demand prevents the employee from utilizing the accrued compensatory time or a prevailing market condition exists in a profession that an employee should be paid such compensatory time upon separation or if cannot be used prior to its expiration).

### **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.

The supervisor shall review and approve each employee's time. The supervisor's approval validates the time sheet of work performed by the employee. Falsifying the time sheet may result in disciplinary action up to and including termination.

Employees shall be required to use leave for any tardiness or may request approval from supervisor for workweek adjustment.

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

Employees may be disciplined for excessive tardiness.

### **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.

Breaks or short rest periods lasting 15 minutes or less are counted as time worked. OMES may eliminate breaks as necessary due to staffing or work needs.

Non-exempt employees cannot "save" 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 the HR Department. 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.