



Court Services and Offender Supervision Agency for the District of Columbia

*Office of the Director
Office of Human Resources*

HUMAN RESOURCES DIRECTIVE 550.1

SUBJECT: Overtime/Fair Labor Standards Act

EFFECTIVE DATE:

APPROVED: _____
Jasper Ormond, Interim Director

- I. INTRODUCTION:** This Directive establishes policy, in accordance with the Fair Labor Standards Act (FLSA), Title 5, United States Code (U.S.C.), and Title 5, Code of Federal Regulations (C.F.R.) for the administration of overtime compensation for employees of the Court Services and Offender Supervision Agency (CSOSA).
- II. PURPOSE:** The purpose of this Directive is to establish overtime compensation, administration and documentation policies for CSOSA in accordance with federal laws, rules and regulations.
- III. REFERENCES:**
 - A. Fair Labor Standards Act of 1938, as Amended
 - B. 5 U.S.C. 5542 "Overtime Rates Computation"
 - C. 5 U.S.C. 5543 "Compensatory Time Off"
 - D. 5 U.S.C. 5547 "Limitation on Premium Pay"
 - E. 5 U.S.C. 6123(a)(1) "Flexible Schedules; Computation of Premium Pay"
 - F. 5 C.F.R. §§ 550.111-114 "Overtime Pay" and 101-541 "Pay Administration Under the Fair Labor Standards Act"
- IV. POLICY:** CSOSA employees will receive compensation in the form of payment or compensatory time for overtime work as required by the FLSA and Title 5, U.S.C. Supervisors and managers will, as a matter of good management practice, make every effort to minimize overtime work and establish necessary controls over its authorization.
- V. COVERAGE:** The overtime policy described in this Directive applies to all General Schedule staff of CSOSA except the Director, unpaid interns, volunteers and the CSS-CSO Bargaining Unit. This Directive does not apply to the Pretrial Services Agency.
- VI. RESPONSIBILITIES:**
 - A. The Director or designee is responsible for final approval of the overtime policies and procedures for CSOSA.

B. The Associate Director for Human Resources is responsible for issuing policies, guidance and interpretations of law and regulation in order to ensure the Agency's compliance with the overtime provisions of the FLSA and Title 5, U.S.C.

C. Associate Directors/Office Heads (or equivalent) are responsible for decisions authorizing and scheduling overtime work in their organizational components in accordance with established policies and procedures and in legal compliance with applicable law and regulation.

D. First-line supervisors are responsible for: (1) directing or authorizing overtime work, (2) ensuring that employees comply with legal and administrative requirements, (3) ensuring that productivity, office coverage and customer service responsibilities are met and (4) ensuring that funds are available.

E. Employees are responsible for familiarizing themselves and complying with the provisions of this Directive. Employees are specifically not permitted to work additional hours beyond their regular schedules without prior supervisory approval or direction.

VII. DEFINITIONS:

A. Administrative Workweek - a period of seven (7) consecutive calendar days designated in advance by the Head of the Agency under 5 U.S.C. § 6101. See also 5 C.F.R. § 610.102(a).

B. Compensatory Time – time off with pay in lieu of overtime pay for irregular or occasional overtime work. (Compensatory time may also be authorized for *regularly scheduled* overtime work for employees on flexible schedules pursuant to Human Resources Directive (HRD) 610.4 - Alternate Work Schedule Program.) Compensatory time is granted at the rate of one hour for each overtime hour worked.

C. Fair Labor Standards Act – sets standards for overtime pay, equal pay for equal work, minimum wage, record keeping and other requirements for those covered by the Act.

D. FLSA *Nonexempt* Employee – an employee *who is covered* by FLSA overtime pay provisions.

E. FLSA *Exempt* Employee – an employee *who is not covered* by FLSA overtime pay provisions. FLSA *exempt* employees are covered by the overtime pay provisions of Title 5, U.S.C.

F. Overtime – hours of work officially ordered or approved in excess of 8 hours a day or 40 hours in an administrative workweek. “Credit hours” do not constitute overtime hours.

G. Rate of Basic Pay – the rate of pay fixed by law or administrative action (such as special rates) and any applicable continued interim geographical adjustment, locality-based comparability payment, or special pay adjustment for Law Enforcement Officers.

VIII. DETERMINATION OF FLSA *NONEXEMPT* AND *EXEMPT* STATUS: The Office of Human Resources (OHR) shall review each position and apply the FLSA exemption test to determine its *nonexempt/exempt* status. The FLSA status shall be documented on the official Position Description-OF-8 and the SF-50 (Notification of Personnel Action).

IX. OVERTIME PAY CALCULATIONS:

A. FLSA *Nonexempt* Employees: A *nonexempt* employee's overtime pay calculated in accordance with the FLSA consists of: (1) the employee's straight time pay rate times the number of overtime hours worked; plus (2) one-half times the straight-time rate of pay for all overtime hours worked (time and one-half). There is no limitation on the hourly or biweekly overtime pay earnings for FLSA *nonexempt* employees. *Nonexempt* employees **must** be paid for all authorized overtime work unless they specifically request compensatory time in lieu of payment. Such requests must be submitted in writing prior to the beginning of the overtime period. Employees may not be pressured or coerced into waiving their rights to overtime payment.

The law requires payment for each minute of FLSA overtime worked. The CSOSA payroll system is configured in fifteen minute increments. Therefore, overtime is recorded on the Time and Attendance (T&A) record rounded up to the nearest fifteen minutes; e.g., if an employee worked two hours and eleven minutes of FLSA overtime, the T&A record would reflect two hours and fifteen minutes of overtime worked for pay purposes. There is no limit on the amount of overtime which may be paid to a nonexempt employee.

B. FLSA *Exempt* Employees: An FLSA *exempt* employee's overtime hourly rate of pay is calculated in accordance with the following Title 5, U.S.C. guidelines.

1. Overtime Hourly Rate -

a. For employees with rates of basic pay equal to or less than the rate of basic pay for GS-10, step 1, the overtime hourly rate is the employee's hourly rate of basic pay multiplied by 1.5 (time and one-half).

b. For *non*-Law Enforcement Officer (LEO) employees with rates of basic pay greater than the rate of basic pay for GS-10, step 1, the overtime hourly rate is the hourly rate for GS-10, step 1 multiplied by 1.5 (time and one-half).

c. For Law Enforcement Officers (LEO) whose rate of basic pay exceeds the rate of basic pay for GS-10, step 1 (including the LEO adjustment), the

overtime hourly rate is the *greater of* the hourly rate of basic pay for GS-10, step 1 multiplied by 1.5, *or* the LEO's hourly rate of basic pay.

2. Overtime Pay Limitation – An exempt employee may be paid premium pay (including overtime, night differential, the dollar value of earned compensatory time and Sunday or holiday pay) only to the extent that the payment does not cause the total amount of basic pay and premium pay for any biweekly pay period to exceed the maximum rate for a GS-15 (including the locality adjustment).

3. Limitations for LEO's - An exempt LEO employee may be paid premium pay only to the extent that the payment does not cause the total amount of basic pay and premium pay for any pay period to exceed the lesser of 150 percent of the rate of basic pay for GS-15, step 1, or the rate payable for level V of the Executive Schedule (EX-V).

4. Payment Increments – Overtime work performed by FLSA *exempt* employees is earned and paid in increments of fifteen minutes.

X. COMPENSATORY TIME OFF:

A. Employee Coverage - Compensatory time off may be approved in lieu of overtime pay for irregular or occasional overtime work for both FLSA *exempt* and *nonexempt* employees in accordance with the following policies.

1. The Agency may require that an *exempt* employee whose rate of basic pay is *above* the rate for GS-10, step 10 receive compensatory time off in lieu of overtime pay for irregular or occasional overtime work.

2. An *exempt* employee whose rate of basic pay is *equal to or less* than the rate of GS-10, step 10 has the option to elect overtime payment *or* compensatory time.

3. No *mandatory* compensatory time off is permitted for FLSA *nonexempt* employees.

B. Regularly Scheduled Overtime - Compensatory time off may be approved at the employee's request in lieu of payment for employees who are ordered to work *regularly scheduled* overtime hours under flexible work schedules. See 5 U.S.C. § 6123(a)(1).

C. Earning and Use Increments – Periods of irregular or occasional overtime work will be accumulated on a daily basis and totaled at the end of the workweek. Compensatory time for irregularly scheduled or occasional overtime work will be credited on the T&A record in increments of 15 minutes.

D. Time Limits on Use and Payment for *Nonexempt* Employees – A *nonexempt* employee who fails to use compensatory time within six months after the end of the

calendar year in which it was earned must be paid for the overtime work at the rate in effect for the work period in which it was earned.

E. Time Limits on Use, Forfeiture and Payment for *Exempt* Employees –

1. An *exempt* employee who fails to use compensatory time within six months after the end of the year in which it was earned will forfeit the time except as follows: if an employee requests to use compensatory time, in writing on an SF-71, and the request is denied because of an unforeseen “exigency of the public business,” an additional six months will be provided to use the compensatory time.

2. If, after an extension of time, an exempt employee is still unable to use accumulated compensatory time, it shall be forfeited, unless an “exigency of the public business” prevents the use of the compensatory time. In this case, the employee will be paid for the earned overtime hours at the premium rate in effect for the work period in which it was earned.

3. Transfers and Separations – An employee who has unused compensatory time to his/her credit at the time of a transfer to another agency or separation will be paid for the time at the premium rate in effect at the time it was earned.

XI. DOCUMENTATION:

A. Overtime Pay –

1. Written approval for overtime work shall be documented on an overtime request form or other acceptable format.

2. Overtime hours shall be officially recorded on the T&A Record.

B. Compensatory Time Off in Lieu of Overtime Pay -

1. Official Certification – An Associate Director, Office Director or supervisor who orders or authorizes overtime work will certify in writing in situations when compensatory time off, rather than pay, is the authorized and allowable form of compensation. When practicable, the certification will be made at the time the overtime work is ordered or authorized.

2. Request to Earn Compensatory Time – Employees who request to earn compensatory time in lieu of overtime pay must make the request in writing prior to the beginning of the overtime assignment.

3. Request to Use Compensatory Time – An employee’s request to *use* compensatory time will be made in writing on an SF-71 and may be approved or denied by the supervisor based on workload considerations.

4. Time and Attendance Report – Compensatory time to be credited to an employee’s account, as well as any time used, will be reported on the T&A Record.

XII. EXEMPT CSOSA POSITIONS: A list of FLSA *exempt* positions will be maintained by OHR. Employees who have questions regarding FLSA status may contact OHR and request information about the FLSA status of their position.

XIII. CANCELLATIONS: This Directive cancels any previous regulations or memoranda regarding overtime work.

XIV. RELATED DIRECTIVES:

HRD 610.1 - Hours of Work

HRD 610.4 - Alternate Work Schedule

HRD 630.2 - Leave Administration