**Policy: 5210 Section 5000: Personnel**

**POLICY TITLE: FAIR LABOR STANDARDS ACT (FLSA) AND WORK DAY**

**POLICY**

This agency will follow all requirements set forth in the Fair Labor Standards Act (FLSA), and applicable sections of Idaho Code that deal with employee contracts and work hours. Non-exempt employees covered by the FLSA will be identified and compensated for overtime hours in accordance with this policy. All agency supervisors and administrators must ensure that FLSA provisions relating to overtime and hours worked are strictly adhered to, in compliance with federal law.

**BACKGROUND**

This policy and its accompanying procedure establish the requirements and guidelines for a normal work-year, normal workweek, preferred method to calculate pay, and for compensatory time for Canyon-Owyhee School Service Agency (COSSA) employees.

In accordance with the Fair Labor Standards Act, COSSA has a policy of granting non-exempt employees compensatory time off in lieu of compensation for time worked in excess of 40 hours in a workweek. Compensatory time may be granted as long as the excess time is not accrued in the execution of regular duties covered by the normal employee contract/worksheet, or by a stipend for additional duties. A compensatory time log (Appendix 507-1) will be completed for each employee who claims compensatory time.

For non-exempt employees, compensatory time will be granted at one and one-half hours for every excess hour over 40 worked in a workweek. Exempt employees (administrators and teachers) who are salaried will not normally accrue compensatory time.

Accrued compensatory time will be used in accordance with this policy and the applicable laws, rules, and regulations of the U.S. Department of Labor.

**DEFINITIONS**

“Compensatory Time”, also known as: *time off in lieu*; *compensatory time*; or *comp time,* refers to a type of work schedule arrangement that allows (or requires) workers to take time off instead of, or in addition to, receiving overtime pay for each hour worked over forty (40) hours in any one (1) workweek.

“Non-exempt employees” means those employees included in the overtime provisions of FLSA. Additional compensation or compensatory time off will be provided for hours over forty (40) worked during the workweek. Most non-certificated (classified) employees are non-exempt employees.

“Overtime hours” means hours worked in excess of forty (40) hours in any workweek, midnight Saturday to midnight the following Saturday.

“Work-year”. Certificated and classified personnel work hours are reported to the Idaho State Department of Education using the Idaho System of Educational Excellence (ISEE) system. ISEE requires that all work time be calculated on a 5-day-per-week basis to ensure comparable reports across the state. Some of COSSA’s employees work in 5-day-per-week school settings, and some work in 4-day-per-week school settings. To ensure reporting consistency and fairness for all COSSA employees, COSSA employees’ calendars for non-year-around (traditional academic school year) certificated employees will be standardized to ensure the total number of hours worked in a year approximates the state average of 1520 (190 days X 8 hours per day) and the COSSA employees’ calendars for non-year-around (traditional academic school year) classified employees will be standardized to ensure the total number of hours worked in a year approximates 1274 (182 x 7 hours per day) for 5-day-per-week school settings and 1272 (159 x 8 hours per day) for 4-day-week school settings.

“Workweek” means five (5) consecutive days during a seven (7) day period for those non-exempt employees assigned to a five (5) days per week District and four (4) consecutive days during a seven (7) day period for those non-exempt employees assigned to a four (4) days per week District. In this agency, the regular workweek begins at midnight Saturday and ends at midnight the following Saturday, although a regular work schedule is generally based on a Monday through Friday week.

## **WORK HOURS**

All non-exempt employees shall be scheduled to work forty (40) hours or less per week within the established workweek of midnight Saturday to midnight the following Saturday.

Non-exempt employees are given a minimum thirty (30) minute unpaid lunch break, which the supervisor will schedule so as to not disrupt the workflow. If required to work during the lunch break, employees will be paid or will receive compensatory time. Employees must receive supervisor approval before working through a lunch break.

## **OVERTIME**

Non-exempt employees who work in excess of forty (40) hours in any workweek shall be paid one and one-half (1½) times the regular hourly wage or given compensatory time equal to one and one-half (1½) times the overtime hours actually worked, as defined in this policy. Overtime payments or comp time accrual shall be computed on the basis of hours actually worked during a single workweek, as recorded on the employee’s timesheet. Holidays, vacation, sick leave, emergency leave, and other hours paid but not worked are not hours worked for the purpose of overtime calculation.

Overtime hours shall not be used routinely to complete regular job responsibilities. A non-exempt employee will be allowed to work hours in excess of the employee’s scheduled hours only upon the written prior approval of his or her immediate supervisor, except in the case of a documented emergency. In the event of an emergency, the employee must make a reasonable attempt to obtain prior approval from his or her supervisor for the overtime. If prior approval cannot be obtained, the employee must notify the supervisor that excess hours were worked and the nature of the emergency during the employee’s next regularly scheduled shift.

Any employee who works unauthorized overtime will be subject to disciplinary action, which may include suspension without pay and/or termination, as determined appropriate.

The supervisor may adjust an employee’s work schedule for the remainder of the workweek to prevent the total number of hours for that workweek exceeding the number of hours regularly worked.

The employee must submit verification of the additional hours worked to the supervisor and payroll clerk at the end of each payroll period in which the additional hours were worked.

**PREFERRED METHOD TO CALCULATE PAY OWED EMPLOYEES**

In order of preference, COSSA prefers to pay/compensate employees based on:

1. Contract/Employee Worksheet with Calendar. This refers to the calendar referenced in the employees’ contract or employment worksheet. The calendar/employment worksheet should list all normal days, times, and duties associated with the job description for the job the employee was hired to accomplish. The contract/employment worksheet and associated calendar should be sufficient to cover most COSSA employees’ days, times, and duties. If an employee finds that they are consistently working more hours than is authorized on their calendar/worksheet to complete the tasks in their job description, the employee shall advise their supervisor that their job description and/or calendar/worksheet needs to be revised. A “time on task” analysis may be performed to determine why the job description/calendar/worksheet is inadequate. It is possible that the employee is being asked to do more than is possible in a normal work day, and a stipend may be required to account for their additional time.

2. Stipend. For extra duties not described in the employee’s main contract/employment worksheet, or for a specific, second job that the employee also performs for COSSA, a stipend will be paid. The stipend is described in a supplemental contract, which also gives the amount of money to be paid for the successful accomplishment of specific duties and/or job. Timesheets are not normally required for supplemental contracted work, as this work is task specific to the duties and/or job.

3. Compensatory Time. In exceptional circumstances where the employee is required to work at a time or in a manner not specified on a calendar or in a supplemental (stipend) contract, the employee can claim compensatory time. Unless the circumstance is an emergency which requires immediate action, such as snow removal by the maintenance crew, the circumstance must have prior administrator approval.

**COMPENSATORY TIME PROCEDURE**

1. Except in an extreme emergency, compensatory time must be approved by the employee’s administrator ahead of time.

2. Non-exempt (classified) employees accrue compensatory time at a rate of one and one-half hours for every excess hour worked beyond the employee’s normal 40 hour work week.

3. Exempt (administrative and certified) employees are not normally granted compensatory time. In an exceptional circumstance where compensatory time is accrued by an exempt employee, they accrue compensatory time at a rate of one hour for every excess hour worked beyond the employee’s normal calendar week.

4. Accrued compensatory time must be used within the fiscal year in which it is accrued. Principals and supervisors are responsible for administering and enforcing the compensation time maximums. Compensation time may not be carried forward into the next school year; all compensation time must be used by June 30 by taking all remaining compensatory time. On July 1st, unused compensatory time is no longer available. Compensation time may not be accrued 30 days prior to the employee’s last work day in a school year. Employees must use accrued compensatory time in accordance with the leave procedures outlined in the COSSA Employee Handbook.

5. Time beyond an employee’s regular calendar and/or supplemental (stipend) schedule will be indicated on the employees’ timesheet (if the employee files a timesheet) and on a compensatory time log (Appendix 5210-1) during the pay period that the time is accrued.

6. To claim compensatory time, employees must submit a leave form – indicating that the time off they are requesting is “compensatory time”. Compensatory time is no different from regular leave – approval is subject to the availability of substitutes.

7. Just as the accumulation of compensatory time is logged on a timesheet or on a compensatory time log (Appendix 507-1), the use of compensatory time must also be reflected on a timesheet along with the claim for leave.

8. The maximum number of compensatory time hours that an employee who works a normal school year (approximately 190-day academic calendar) may accrue in any single pay period is four (which equates to six compensatory hours at time and one-half). Any employee who has reached this maximum shall not work any additional overtime until the employee’s accrued compensatory time has fallen below the maximum allowed, unless the employee receives advance written authorization and receives payment in cash for any such additional overtime. COSSA reserves the right at any time to require the employee to use accumulated compensatory time.

9. The maximum number of compensatory time hours that an employee who works year-around (approximately 245-day calendar) may accrue in any single pay period is six (which equates to nine compensatory hours at time and one-half). Any employee who has reached this maximum shall not work any additional overtime until the employee’s accrued compensatory time has fallen below the maximum allowed, unless the employee receives advance written authorization and receives payment in cash for any such additional overtime. COSSA reserves the right at any time to require the employee to use accumulated compensatory time.

## **COMPENSATORY TIME RECORDS**

Employees will be compensated for overtime or will accrue comp time based on their timesheet or a completed compensatory time log. Failure to maintain accurate logs, or falsification of such logs, will be grounds for disciplinary action. No supervisor shall knowingly allow an employee to work unreported overtime to avoid overtime payments.

The agency will maintain all payroll records for at least three (3) years. Such payroll records include any documentation (electronic or hard copy) on which wage computations are based, including, but not limited to, timesheets, work schedules, and compensatory time logs.

**EQUIVALENT WORKING CONDITIONS**

Every employee is expected to conduct their work at the location specified in their main contract/worksheet or supplemental (stipend) contract. However, there are circumstances where some employees who do not have direct student contact may work from home when weather or other conditions prevent the employee from traveling to their normal work location. Equivalent working conditions may be met by working from home due to inclement weather, or illness not so severe that they cannot work but are contagious. Equivalent working conditions must be preapproved by the employees’ supervising administrator. Once approved, equivalent working conditions are recorded just as if the employee was at their normal place of work.

**EMERGENCY CIRCUMSTANCES AND FEDERAL PROGRAM FUNDING**

This section is intended to alleviate any concerns associated with allocating staff time, and their associated salaries, to federal programs during emergency closures.

The OMB (Office of Management and Budget) promulgates rules and regulations associated with how we allocate and utilize resources associated with federal programs. In normal operating situations, federal programs require what is called time and effort. Essentially, time and effort is a way that we track specific time worked on federal programs and the specific work tasks or functions completed on that federal program. Time and Effort provides a level of accountability to the usage of federal funds.

During emergencies, a waiver from OMB issued March 13, 2020 provides the following guidance: if you have a policy that identifies that you are consistent in your application and usage of federal and non-federal dollars during a closure period you can continue to allocate expenses to federal programs during that closure period. For example, if staff compensated using state and local funds are being paid through a closure period, then staff compensated from federal funding can be as well, and vice versa if the opposite situation occurred.

Without this waiver, while we would have time associated with the employee working, there could potentially be the issue of a lack of effort for the federal program since employees could not complete all of those tasks from home (i.e. a teacher is paid out of Title programs but because the school is closed the teacher is sent home. While the teacher is still being paid because of their contract with the Agency (time) they are not supporting EL instruction all day-every day (effort) and thus would not be eligible to be coded to a federal program).

This policy will allow us to continue to allocate staff time and compensation consistently across funding streams, and more specifically serve its purpose as a policy associated with the consistency of application and usage of funding streams during a closure period which will allow us to allocate costs to federal programs as well.

It is the intent of the Canyon-Owyhee School Service Agency (COSSA) to apply consistent accounting treatment when allocating funds across both federal and non-federal funding streams. The Agency will ensure that the expenditures incurred meet eligibility provisions for the specific program and are both reasonable and allowable to be allocated to that specific program or funding stream, regardless of whether the funding stream is federal, state, or local in nature.

Specifically, with relation to the utilization of federal funding, the expenditures incurred will be reviewed to ensure they meet allowed provisions associated with that specific program’s federal regulations and requirements. Furthermore, in the event an expected, unexpected, or extraordinary circumstance exists that requires closure of the Agency or any of its schools, the Agency will ensure that expenditures applied to federal programs are applied in a consistent manner similar to state and local funding streams, both during and previous to, the closure event occurring.

**LEGAL REFERENCE:**

 **ISEE Staff Data Guidance Manual**

 **I.C. 33-512 Governance of Schools**

 **I.C. 33-513 Professional Personnel**

 **I.C. 67-5328 Hours of Work and Overtime**

 **29 USC 201 to 219 Fair Labor Standards Act of 1985**

 **29 CFR 516, *et seq*. FLSA Regulations, Idaho Department of Labor**

**POLICY HISTORY:**

 **Adopted: 6/18/2018**

 **Revised and reissued as policy 5210: 7/20/2020**

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|  |  |  |  | Appendix 5210-1Compensatory Time Log |  |
|  |  |  |  |  |  |  |  |  |  |  |
|  | **Employee:** |   |   |   |   | **Comp. Time = 1 1/2 times overtime hours** |
|  |  |  |  |  |  | **Overtime** | **Comp Time** | **Approval** | **Date** |
|  |  **Date**  | **Reason for Comp Time** |  | **Hours** | **Accrued** | **Used** | **Signature** | **Approved** |
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