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COMMISSION ON LEGAL COUNSEL FOR INDIGENTS

Policy on OVERTIME AND COMPENSATORY TIME

The standard work week for Commission employees is forty (40) hours. The work week begins at 12:00 a.m. Sunday morning and concludes 11:59 p.m. on Saturday night.

Exempt Employees

Executive, administrative and professional employees (such as attorneys), as defined by the Fair Labor Standards Act, are exempt for the overtime provisions of the Act. Exempt employees will normally not be given compensatory time for hours worked in excess of forty (40) hours per week. In extraordinary situations, the Director or Deputy Director, may approve compensatory time for an exempt employee. An "extraordinary situation" will not be found to exist unless the employee has worked forty-five (45) hours of work in a week for which compensatory time is sought. After forty-five (45) hours of work in a work week, the exempt employee shall discuss with their supervisor, and the direct supervisor may petition the Director or Deputy Director for compensatory time at the rate of one hour for each hour worked in excess of forty-five (45). Exempt employees are encouraged to use the Commission's policy of flexible scheduling.

Non-Exempt Employees

Non-exempt employees, as defined by the Fair Labor Standards Act, must obtain approval before the employee works in excess of forty (40) hours in a work week. The approval must be sought from the non-exempt employee's supervising or lead attorney, who then must communicate the request to the Director or Deputy Director. Only the Director or Deputy Director may approve overtime for a non-exempt employee. Failure to secure approval may subject an employee to discipline.

Non-exempt employees must be paid time and one-half their regular rates for all hours worked in excess of forty (40) hours in a work week.

Compensatory time may be given in lieu of overtime compensation and will be at a rate of one and one-half hours for each hour of employment for which overtime pay would normally be required. There must be an executed agreement, as provided by the Commission to its employee, to substitute compensatory time for overtime pay. This agreement must be executed prior to the performance of the work for which compensatory time is sought.

Use and Accrual of Compensatory Time

An employee who has accrued compensatory time off must be permitted to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt operations of the office. Absent prior written approval of the Director or Deputy Director, the employee who has accrued compensatory time must use that time within two (2) months of accruing it. The Director may require an employee use accrued compensatory time prior to use of any other leave.

Compensatory time accrual is limited to forty (40) hours unless expressly authorized by the Director or Deputy Director to accrue more. When forty (40) hours is reached by a non-exempt employee, any further work in excess of forty (40) hours in a work week will constitute paid overtime and will be paid via payroll. A non-exempt employee's unused compensatory time will be paid upon termination of employment. The rate of pay must be either the employee's final regular rate or the average regular rate received by the employee during the last three years of employment, whichever is higher. Upon termination, of employment of an exempt employee, any unused compensatory time will be canceled, and as such will not be paid out.