

Financial Management Circular # 2019-2
Effective Date: December 29, 2019
General Subject: Compensatory Time Off
Specific Subject: Grandfathering of Compensatory
Time-Off Accrued by Formerly Exempt Employees
Authority: IC 4-15-2.2-15(5)
31 IAC 5-7-3(2)

Application: This circular applies to employees who: 1) were exempt from the Fair Labor Standards Act and ineligible for premium overtime compensation before 12/29/19, 2) became eligible for premium overtime compensation on 12/29/19 pursuant to Financial Management Circular #2019-1; and, 3) had accrued compensatory time off under Financial Management Circular #87-2.1, #2004-02, or #2013-04 that was unused as of December 29, 2019

Employees not covered by the Financial Management Circular referenced in 31 IAC 5-7-3(1) are exempt from eligibility for premium overtime compensation and the Fair Labor Standards Act (FLSA). The state had no legal obligation to pay overtime wages or provide compensatory time off to employees doing exempt work. However, from time to time, agency heads authorized compensatory time off for certain exempt employees in accordance with Financial Management Circular #87-2.1, #2004-02, or #2013-04. Changes to the "white collar" overtime exemption in 29 CFR 541 result in some formerly exempt employees becoming overtime eligible, thereby creating the issue of how previously accrued, exempt, compensatory time off will be treated after December 29, 2019.

Grandfathering of Compensatory Time-Off for Formerly Exempt Employees

Compensatory time off that:

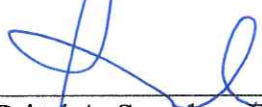
- 1) was authorized and earned per Financial Management Circulars (FMC) #2013-04, #2004-02, or #87-2.1, prior to December 29, 2019, and
- 2) is on the account of an employee whose eligibility for premium overtime compensation changes from exempt to eligible as a consequence of the changes to 29 CFR Part 541, effective December 29, 2019

remains on account and may be used by the employee, after December 29, 2019, in accordance with the terms of the FMC that was in effect at the time the compensatory time off was accrued.

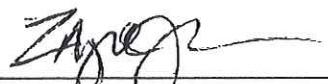
Upon termination or interagency transfer an employee receives no compensation for compensatory time accumulated while the employee was overtime exempt. Exempt compensatory time off may not be used after an employee has given notice of her/his intent to terminate or transfer. No more than three weeks of exempt compensatory time may be taken off during a calendar year.

This grandfathered comp time must be used by December 31, 2020; thereafter, any unused balance will expire and the employee will not be entitled to compensation.

Overtime compensation for formerly exempt employees, for work performed before December 29, 2019 that is not consistent with provisions of this circular must be approved by the State Personnel Department and the Budget Director.



Britni A. Saunders, Director
State Personnel Department



Zachary Q. Jackson, Director
State Budget Agency