1.0 Background

The policy below is a restatement and augmentation of a long-standing CSM policy and practice regarding the granting of compensatory time in lieu of overtime payments. All CSM employees are covered by the Fair Labor Standards Act of 1938 (FLSA). The act, as amended, establishes standards on such things as the minimum wage, recordkeeping requirements, and eligibility for overtime compensation. For purposes of public accountability and fiscal responsibility, federal law and state rules establish several standards that are unique to the public sector, such as allowing the use of compensatory time off in lieu of cash payments for overtime, the 40-hour workweek standard for all employees, and allowing deductions from an employee's pay under certain circumstances.

Under the FLSA, exempt employees are not eligible for overtime pay or compensatory time for hours worked beyond 40 in a workweek. Such employees are expected to work the hours necessary to complete quality assignments in a timely manner, which may include evenings, weekends, and holidays if needed. FLSA exempt employees are not expected to complete weekly time sheets.

Also under the FLSA, non-exempt employees are eligible for compensation at the rate of one and one-half times their base hourly rate for all hours worked in excess of 40 in a workweek. Paid leave is not required to be counted as work time for purposes of calculating overtime. Non-exempt employees must complete timesheets.

FLSA exempt or non-exempt status is not the same as being exempt from the State of Colorado Classified Personnel System. The Classified Personnel System contains both FLSA exempt and non-exempt positions. Generally however, if a position is exempt from the Classified Personnel System, it will also likely be an exempt position under FLSA, but not always.

2.0 Policy

2.1 The workweek for determining when overtime (or compensatory time) occurs is from 12:01 A.M. Saturday through 12:00 Midnight Friday.

2.2 For employees eligible for overtime or compensatory time, work that will result in the payment of overtime or compensatory time must either be specifically assigned by the supervisor or must be approved by the supervisor.
prior to its performance. Failure to obtain prior approval of the supervisor may subject the employee to corrective or disciplinary action.

2.3 Generally, as a condition of employment, compensatory time off will be given to FLSA non-exempt employees in lieu of overtime payment for work in excess of the standard 40 hour work week. If compensatory time off is granted in lieu of payment for overtime, it will be managed in accordance with the rules and procedures established by the Colorado Department of Personnel and Administration.

3.0 Procedures

3.1 Human Resources (HR) designates whether a position is FLSA exempt or non-exempt based on the content of the job’s duties at the time of the job’s creation or when an official Position Description Questionnaire (PDQ) is submitted because of a change in assignment.

3.1.1 While the PDQ is supposed to be an accurate representation upon which the FLSA exemption designation can be made, if the PDQ becomes outdated without being changed, and the actual work performed differs from the PDQ, the actual work will determine the FLSA status, not the PDQ. Pay that is based upon an inaccurate FLSA exemption status can result in back-pay and penalties. For this reason, supervisors and employees are encouraged to periodically review PDQs to assure their accuracy. If substantive changes in the PDQ occur, HR must be notified and a revised PDQ must be completed.

3.2 All FLSA non-exempt employees must complete and sign accurate timesheets and submit them to their supervisor for review and approval within the deadlines established by the Payroll Office. The signed timesheet is a legal payroll document supporting the employee’s pay and is required by FLSA regulations.

3.3 When a FLSA non-exempt employee works hours that will create overtime or compensatory time, and if compensatory time is to be accumulated in lieu of overtime payment, the employee and supervisor must record the compensatory hours in the appropriate spaces on the FLSA timesheet. In order to comply with the FLSA and State Personnel Rules, a completed and signed Compensatory Time Agreement Form must be on file in the Human Resources Office. If the form has not been previously completed, it must be filled out,
signed, and attached to the FLSA timesheet that is sent to the Payroll Office. Payroll will forward the completed, signed form to Human Resources.

3.4 Compensatory time will be accumulated at the rate of 1.5 hours for each hour of work that exceeds 40 hours of work in the work week. No more than 240 hours of compensatory time may be accrued and held in an employee’s balance. Any balance of hours above 240, must be paid as overtime.

3.5 In accordance with State Personnel Rules, it is intended that employees who have earned compensatory time off will be granted use of that time as soon as practical after the time’s accumulation. Compensatory time must be taken within four months after the end of the pay period in which overtime was worked. Any compensatory time in excess of 60 hours and not taken within the four-month limit must be paid at the next regular pay period. If State Personnel Rules governing these provisions change in the future, this section (3.5) will be deemed to change in accordance with the State Personnel Rules.

3.6 Records of compensatory time earned and used must be provided to the Payroll Office within the deadlines set for each pay period.

3.7 Unused compensatory time at termination of employment, change in assignment to a FLSA exempt position, or transfer to another state agency must be paid at that time.