

State of Wisconsin

DOA – DIVISION OF PERSONNEL MANAGEMENT

– CLASSIFICATION AND COMPENSATION BULLETIN –

Date: September 11, 2018

Subject: Annual Cash-out of Compensatory Time

Locator No: DPM-0481-CC/PP

This bulletin provides detailed information for agencies and Central Payroll to implement the new provision in the 2017-2019 Compensation Plan requiring cash-out of unused compensatory time each year for permanent and project classified employees. As a reminder, management may request that employees schedule time off to use compensatory time in lieu of complete cash-out*. Depending upon arrangements with employees made at the time the compensatory time was awarded, using the time as time off rather than cash payment should be considered. All compensatory time not used by October 31, 2018 will be cashed.

SECTION I. COVERAGE UNDER THIS BULLETIN

- A. Covered Classified Employees.** Because the compensatory time cash-out provision is in Section A of the Compensation Plan, it applies to employees covered by Section A, namely, all permanent and project classified employees except represented employees of the public safety bargaining unit (i.e., State Patrol Troopers and Inspectors).
- B. Unclassified Employees Not Covered.** Unclassified employees are not covered by Section A of the Compensation Plan and are therefore not subject to the compensatory time cash-out provisions.

SECTION II. ADMINISTRATIVE PROVISIONS FOR ANNUAL COMPENSATORY TIME CASH-OUT

- A. Cash-out Provision.** Section A, 4.03(3)(b) of the Compensation Plan states: Each year, any compensatory time not used by October 31, including compensatory time earned for working on a legal holiday, will be paid in cash in the following November at the employee’s current regular rate. There will no longer be an additional period of time for the compensatory time to be used as paid leave.
- B. Administrative Process.**
 - 1. Any compensatory time earned by the end of the last full pay period preceding October 31 must either be used by the employee as paid leave by October 31 or will be cashed-out to the employee at the employee’s current rate of pay for the pay period of cash-out.

**The Supreme Court of the United States, in affirming a decision by the Court of Appeals for the Fifth Circuit, found that nothing in the Fair Labor Standards Act (FLSA) or its implementing regulations prohibits an employer from compelling the use of compensatory time. (CHRISTENSEN V. HARRIS COUNTY (98-1167) 529 U.S. 576 (2000) 158 F.3d 241, affirmed.)*

2. The cash-out will appear on the earliest administratively feasible paycheck in November. In 2018, this will be on the paycheck of November 21, 2018.
3. Any compensatory time earned after the last full pay period preceding October 31 may be carried forward as paid leave time to be used by October 31 of the following year (or until the FLSA limit on compensatory time accrual is reached, if sooner).
4. Agencies, at their discretion, may still choose to cash-out unused compensatory time at any other time of the year in addition to this November cash-out.

SECTION III. NOTIFICATION TO EMPLOYEES

Agencies should notify covered classified permanent and project employees as soon as possible of this new provision to cash-out any earned but unused compensatory time, so that employees may choose to use their compensatory time leave by October 31 if they wish. Sample language for such notification is as follows:

Due to a new provision in the State Compensation Plan, all compensatory time not used by October 31 of this year will be cashed out and appear as payment on the November 21st paycheck. This applies to classified employees in all agencies, for all compensatory time earned through the pay period ending on October 27. Employees who wish to use some or all of their compensatory time as vacation are encouraged to request the vacation as soon as possible, for use no later than Wednesday, October 31.

Compensatory time earned in the pay period beginning October 28 and pay periods after that will be carried forward on employee's leave accounts in the usual manner. A similar cash-out of accrued compensatory time will occur each November in the future, unless the Compensation Plan is changed. However, <this agency> may also at any time choose to cash-out compensatory time balances.

Please be advised that compensatory time should be used as time off and your supervisor may work with you to ensure the time is scheduled rather than paid out each year.

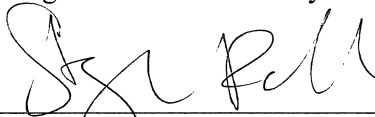
SECTION IV. REFERRAL OF QUESTIONS AND REFERENCE

Employee Questions: Employees with questions regarding this annual compensatory time cash-out should contact their agency Human Resources or Payroll Office directly.

Employer Questions: Employer questions should be directed to:

John Wiesman at John.Wiesman@Wisconsin.gov or by phone at (608)266-1418, or the Bureau of Classification and Compensation at DOADPMCompEmploymentRelGenI@wisconsin.gov.

Employer questions regarding *payroll processing or manual adjustments* should be directed to Nancy Krueger in DOA Central Payroll at (608)264-9571.



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