Kings Community Action Organization
Administrative Policy

AP 3250
Human Resources: Employees

**Hours and Overtime: Non-Exempt**

**Purpose:** The purpose of this policy is to:

- Properly classify Non-exempt employees and distinguish them from Exempt employees in order to comply with the federal Fair Labor Standards Act (FLSA) and any other state requirements.
- Establish rules for time keeping requirements and work schedules for non-exempt employees.
- Establish rules for the payment of overtime wages to non-exempt employees.

**Policy**

The Federal Fair Labor Standards Act (FLSA) requires that in addition to paying at least the minimum wage employers also must pay overtime to employees who work more than 40 hours in a given workweek, or over 8 hours in a work day unless they meet certain exceptions. Most workers are classified as either exempt or non-exempt (hourly) depending on their salary and the type of work they do.

**Time Keeping Requirements**

All nonexempt employees are required to keep an accurate record of time worked, including what time work begins and ends. Nonexempt employees must maintain a record of time worked on a daily basis. Time record must be on an actual time basis; rounding of time is not allowed. Supervisors are required to ensure that their direct reports’ time records are accurate before approving timecards. Timecards must be approved by both the employee and supervisor before the payroll deadline.

**Work Schedules**

An employee’s supervisor will assign an individual work schedule depending on the job duties of the position and the operational needs of the agency. An employee’s work schedule is subject to change through the authorization of their supervisor.

**Overtime**

Employees may be required to work overtime as necessary. Only actual hours worked in a given workday or workweek can apply in calculating overtime. KCAO will attempt to distribute overtime evenly and accommodate individual schedules if needed. All overtime work must be
previously authorized by a supervisor. KCAO provides compensation for all overtime hours worked by non-exempt employees in accordance with state and Federal law as follows:

- All hours worked in excess of eight hours in one workday or 40 hours in one workweek will be treated as overtime. A workday begins at 12:00 a.m. and ends at midnight 24 hours later. Workweeks begin each Sunday at 12:00 a.m.

- Compensation for hours in excess of 40 for the workweek, or in excess of eight and not more than 12 for the workday, and for the first eight hours on the seventh consecutive day of work in one workweek, shall be paid at a rate one and one-half times the employee's regular rate of pay in the position the employee is performing during the qualifying hours.

- Compensation for hours in excess of 12 in one workday and in excess of eight on the seventh consecutive workday in a workweek shall be paid at double the regular rate of pay in the position the employee is performing during the qualifying hours.

- Travel time for employees going from their normally assigned work site to other worksites or out-of-county locations for purposes of conducting agency business shall be considered paid time at the employees normal rate of pay, or the overtime rate as applicable; and

- Exempt employees may have to work hours beyond their normal schedules as work demands require. No overtime compensation will be paid to exempt employees.

**Meal Periods**

A work period of more than five hours must contain a meal period. The meal period must begin before the end of the fifth hour of work in a work period. Meal periods must be at minimum 30 consecutive minutes and must be uninterrupted. To be counted as a meal period, employees must also have the ability to leave the premises. When a work period of not more than six (6) hours will complete the day’s work the meal period may be waived by mutual consent of the employer and employee. Meal period waivers must be signed in advance by both the employee and the supervisor, and submitted to the Finance Department as soon as possible but no later than the timesheet deadline.

If an employee is unable to take a 30-minute, uninterrupted meal period with the option to leave the premises, he or she must record this as regular worked time. In addition to being worked time, employees must claim a Meal Premium as allowed by California. A Meal Premium must also be claimed if the meal period is taken on or after the sixth hour of work or if the meal period is less than 30 uninterrupted minutes.

If an employee’s work period is more than 10 hours per work day the employee must take a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived. The second meal period must be taken before the end of the tenth hour of work in the work day must be uninterrupted, away from the work area, no work performed, and the employee must have the option to leave the premises.
In addition to the hours worked, a Meal Premium must be claimed if all of these items are not provided for.

**Rest Periods**

KCAO authorizes and permits all employees to take rest periods. An employee is entitled to paid rest periods based on an employee's total hours worked daily at a rate of ten minutes net rest time for every four hours of work or major fraction of four hours. That is, employees working:

- Less than three and a half hours are not entitled to a rest period.
- Three and a half to six hours are entitled to a ten-minute rest period.
- More than six hours up to ten hours are entitled to 20 minutes of rest time.
- More than ten hours up to 14 hours are entitled to 30 minutes of rest time.

These rest periods are to be taken in the middle of the employee's work period to the extent that is possible, and must be at least ten consecutive minutes for each four hours worked or major fraction thereof. As stated above, a rest period need not be provided for employees working less than three and a half hours.

Moreover, meal and rest periods are intended to provide employees an opportunity to be away from work, and employees are not permitted to perform any work during meal and rest periods. Employees are encouraged to take meal and rest periods away from their immediate work area. Employees are also free to leave the work premises during their meal and rest periods, and may also use the break room.

Authorized rest period time shall be counted, as hours worked, for which there shall be no deduction from wages. If an employee is not authorized or permitted to take a rest period, a Rest Premium should be claimed and approved by both the employee and supervisor.

**Call-In Time**

If an employee is called in to work on an unscheduled day, that employee must be paid a minimum of 2 hours. The employee must record the actual start and stop times of work; if less than two hours is worked, an additional entry must be made on the timecard for paid unworked hours. For instance, if an employee not scheduled to work for that day is called in unexpectedly for one hour, that employee must be paid for 2 hours (one hour worked, one hour paid unworked). If an employee not scheduled to work for that day is called in to work for more than two hours, that employee would be paid for the actual number of hours worked.

If an employee is scheduled to work for less than two hours, the employee is entitled to receive compensation only for the hours worked. For example, if an employee is scheduled to work for one hour, the employee is entitled to compensation for the one hour worked and is NOT entitled to Reporting Time Pay.
Reporting Time Pay

If an employee reports to work on a scheduled work day and is furnished less than the scheduled amount of work time, the employee shall be paid a minimum of two hours, half of the employee’s scheduled work day (up to a maximum of four hours), or actual time worked, whichever is more. The employee must record the actual start and stop times of work; if hours worked is less than the Reporting Time Pay, an additional entry must be made on the timecard for paid unworked hours to assure receipt of Recording Time Pay.

If an employee is required to report for work a second time in any one workday and is furnished less than two hours of work on the second reporting, the employee shall be paid for two hours in accordance with the employee's regular rate of pay. The employee must record the actual start and stop times of work; if less than two hours is worked, an additional entry must be made on the timecard for paid unworked hours.

Reporting time pay does not apply when: (1) Operations cannot commence or continue due to threats to employees or property; or when recommended by civil authorities; or (2) Public utilities fail to supply electricity, water, or gas, or there is a failure in the public utilities, or sewer system; or (3) The interruption of work is caused by a cause not within the employer’s control.

Makeup Time

KCAO allows the use of makeup time when non-exempt employees need time off to tend to personal obligations. Makeup time worked will not be paid at an overtime rate.

Employees may take time off and then make up the time later in the same workweek, or may work extra hours earlier in the workweek to make up for time that will be taken off later in the workweek.

Makeup time requests must be submitted in writing to your supervisor, with your signature, on the Company-provided form. Requests will be considered for approval based on the legitimate business needs of KCAO at the time the request is submitted. A separate written request is required for each occasion the employee requests makeup time.

If time off is requested that will be made up later in the week, a request must be submitted at least 24 hours in advance of the desired time off. If the request is to work makeup time first in order to take time off later in the week, the request must be submitted at least 24 hours before working the makeup time. Makeup time requests must be approved in writing before taking the requested time off or working makeup time, whichever is first.

All makeup time must be worked in the same workweek as the time taken off. KCAO’s seven-day workweek is Sunday through Saturday. Employees may not work more than 11 hours in a day or 40 hours in a workweek as a result of making up time that was or would be lost due to a personal obligation.

If an employee takes time off and is unable to work the scheduled makeup time for any reason, the hours missed will normally be unpaid. However, the supervisor may allow another day to
make up the time if possible, based on scheduling needs. If makeup time is taken in advance of taking time off, the employee must take that time off, even if there is no longer a need to take the time off.

An employee’s use of makeup time is completely voluntary. KCAO does not encourage, discourage, or solicit the use of makeup time.

The Executive Director or his/her designee may develop administrative guidelines to enforce a fair and consistent application of this policy.

References:
Fair Labor Standards Act (FLSA)
California Labor Law Digest (CA Overtime Requirements)
California Labor Code 512

Adopted by Board of Directors: May 18, 2011
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