8.03 HOURS OF WORK, OVERTIME COMPENSATION & MANAGEMENT LEAVE: FLSA EXEMPT EMPLOYEES

Overtime Compensation Not Authorized For Employees Who Qualify as Exempt under FLSA

Compensation for hours worked beyond 40 in a workweek is not authorized for employees who qualify for exemption as defined by the Fair Labor Standards Act (FLSA). Acceptance of an exempt position with the City of Portland constitutes acknowledgement that job responsibilities may require a workweek in excess of 40 hours in a workweek **Emergency Exception:** Exempt employees may be eligible for overtime or compensatory time off, at straight time, for additional hours worked necessitated by an emergency, as declared by the Mayor pursuant to Portland City Code section 15.08.020 or in accordance with the requirements of an established Bureau emergency plan, or as otherwise approved by the Director of Human Resources and City Council.

Specific Exceptions:

1. Public Works Supervisor I and II; Electrical Supervisor.

With the approval of the Bureau Director, Public Works Supervisors I and II and Electrical Supervisors will be eligible for overtime at time and a half for additional hours worked when supervising a field crew working overtime or when responding to urgent service situations (such as, but not limited to, weather related emergencies, infrastructure system failures, and providing mutual aid to other bureaus/agencies responding to urgent situations). To be eligible for overtime, the employee must have worked over 40 hours in the workweek. Vacation and sick leave hours do not count towards the 40 hour threshold. The following are examples of the type of activities **not** considered eligible for overtime hours:

- All preparation work associated with planning scheduled overtime work;
- Any work activities performed away from a work site;
- Off site supervision of a crew or crews working overtime, unless the supervisor is at a work site performing activities related to the overtime work and ;
- Training time; and
- On call duties.

Such employees will not be eligible for management leave in addition to overtime.

2. Emergency Communications Supervisor

With the approval of the Bureau Director, Emergency Communications Supervisors will be eligible for overtime at time and a half for additional hours worked when providing 24 hour 9-1-1 operations unit coverage or when responding to urgent service situations (such as, but not limited to, weather

related emergencies, infrastructure system failures, and providing mutual aid to other bureaus/agencies responding to urgent situations). Such employees will not be eligible for management leave in addition to overtime.

Call Back Pay

There is no "call-back" pay for non-represented FLSA exempt employees who are called to return to work in situations other than an emergency, as defined in an existing Bureau Emergency Plan or as declared by the Mayor pursuant to Portland City Code Section 15.08.020.

Absences of Less than One Day

Absences of less than one day, except as noted below, should not be charged to accumulated time off such as vacation or sick leave or taken as leave without pay for non-represented FLSA exempt employees. Absences must still be pre-approved according to bureau work rules and expectations.

Under the following circumstances absences of less than one day should be charged to accumulated leave, or as “no pay’ if the employee does not have sufficient accumulated leave to cover the partial day absence :

1. Where, on an ongoing basis, the employee is not working their regularly scheduled (standard) work hours due to, but not limited to, working a reduced hour schedule or an intermittent leave schedule, (“not working their regularly scheduled (standard) work hours” means the employee does not work at least 75% of their scheduled work hours during the payroll period); or

2. Where the employee arrives at work on a single day four or more hours after the start of their regular scheduled work hours or leaves work four or more hours prior to the end of their regular scheduled work hours; or

3. Where the employee has not worked 75% of their standard hours during the workweek in which a partial day absence is requested (a manager may determine the partial day absence should be charged to accumulated leave during a workweek where the employee has not reported to work 75% of their standard hours); or

4. Where the employee requests a partial day absence to work on an election, such as a campaign or ballot measure. In such circumstances, the employee’s absence **must** be charged to accumulated leave or taken as leave without pay if the employee has insufficient accumulated leave.

In some cases, an employee may not be able to work their full standard schedule for an extended period of time. In those cases, managers should reset an employee’s standard hours and salary to more accurately reflect an employee’s availability for work. If the schedule change is for a short period of time, 30 days or less, the employee’s standard hours do not need to be changed; however, the employee must use accrued time off or unpaid leave to account for the hours the employee is not performing work on behalf of the City.

If an employee does not have sufficient accrued leave to cover the partial day absence, the leave should be “no pay”.

FLSA exempt employees are paid to work the amount of time required to fully

perform their duties – which may require a workweek in excess of 40 hours in a workweek. Successful performance as an exempt employee is based on the work product, not on the amount of extra time worked. While exact hours are not tracked, performance issues may arise if exempt employees do not meet the desired performance objectives as a result of not working the hours required to complete their job. Performance objectives can include an exempt employee's availability to assist and support others during City business hours.

Bureaus and individual managers are responsible for setting and monitoring accountability expectations.

Management Leave

A bureau director, on behalf of the City, may grant up to eighty (80) hours additional paid leave per calendar year to nonrepresented employees who are not eligible for overtime compensation. The intent of management leave is to recognize the additional individual efforts, performance and achievements beyond the standard workweek. The granting of management leave and the amount of leave awarded, is at the discretion of the bureau director and does not constitute guaranteed time off for non-represented employees who are exempt from overtime compensation. Eligibility for management leave for non-represented FLSA exempt employees in the Fire Bureau is subject to Fire Bureau work rules.

Management leave cannot be carried over to the following calendar year nor will it be paid out in cash if it is not used. Employees transferring between bureaus during the course of the calendar year carry any management leave balances from their former bureau to their new bureau.

FLSA exempt employees are not eligible for compensatory time except as stated under the bureau emergency exceptions above.

Improper Salary Deductions

The City expressly prohibits improper salary deductions. Any exempt employee who believes their salary has been reduced in violation of the law should report the matter as soon as possible to the Human Resources Site Team Manager. If corrections are in order, the Site Team Manager will work with appropriate personnel to ensure steps are taken to reimburse for any improper deductions and to demonstrate the City's good faith commitment to comply with this policy in the future.

FLSA Exempt Employees Covered by a Collective Bargaining Agreement

Rules for Hours of Work and Overtime for any represented FLSA exempt employee will be administered according to the collective bargaining agreement.

Administrative Rule History

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