



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:** If authorized by the Mayor or in the Mayor's absence, the President of the City Council, exempt employees may be eligible for overtime or compensatory time off, at straight time, for additional hours worked necessitated by an emergency pursuant to Human Resources Administrative Rule 4.11 Inclement Weather, or necessitated by an emergency as declared by the Mayor pursuant to Portland City Code section 15.08.02..

Specific Exceptions:

1. Public Works Supervisor I and II

With the approval of the Bureau Director, Public Works Supervisors I and II 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. Any paid absences during the workweek 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;
- Offsite 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.

3. Electrical Supervisor

With the approval of the Bureau Director, Electrical Supervisors will be eligible for overtime at the straight time rate for off-duty hours worked by the Electrical Supervisor responding to emergency call-outs. 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 declared by the Mayor pursuant to Portland City Code Section 15.08.020.

Absences of Less than One Day

Absences of three hours or less on a single 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 full-time non-represented FLSA exempt employees (see Attachment A: Partial Day Absence Guidance). 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 the employee arrives late or leaves early due to inclement weather pursuant to Human Resources Administrative Rule 4.11 Inclement Weather, and is unable to make up the time by telecommuting or adjusting their work hours; or
2. 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
3. Where the employee arrives at work on a single day more than three hours after the start of their regular scheduled work hours or leaves work more than three hours prior to the end of their regular scheduled work hours; or
4. 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
5. Where the employee requests an absence of any length 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.

Part-time non-represented FLSA exempt employees are not eligible for partial day absence. A part-time FLSA exempt employee who is not able to work their full schedule may:

1. with supervisor approval, flex their schedule; or
2. use paid leave, if available, to make up scheduled time not worked.

A part-time FLSA exempt employee who works more hours than scheduled will be paid for those hours.

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 non-represented employees who are not eligible for overtime compensation. The intent of management leave is to recognize exceptional additional individual efforts, performance and achievements, including but not limited to 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

Adopted by Council March 6, 2002, Ordinance No. 176302
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Revised October 15, 2002
Revised July 28, 2003
Revised September 16, 2005
Revised July 9, 2007
Revised October 19, 2010
Revised December 4, 2013
Revised December 12, 2017
Revised February 15, 2018

Attachment A

Partial Day Absence (PDA) Guidance

1. Full-time non-represented FLSA exempt employees may request a Partial Day Absence (PDA).
2. Part-time employees in FLSA exempt classifications are not eligible for PDA. Part-time non-represented FLSA exempt employees who work fewer hours than scheduled may, with supervisor approval, flex their schedule within the pay period to make up the time; may use available accrued leave to make up time not worked; or must take the hours not worked as unpaid.
3. Managers have the discretion to deny a request for a Partial Day Absence.
4. In general, PDA is appropriate for:
 - Sick leave related absences and appointments (medical appointments, procedures, etc.). If an employee uses PDA for a medical appointment and then is out the remainder of the day due to an illness, the PDA should be converted to sick leave. Conversion to sick leave does not apply if PDA takes the employee to the end of the work day or if they are out ill the next workday(s).
 - Non-medical appointments that cannot be scheduled outside of the workday, such as school meetings, meeting with contractors, etc.
5. PDA is not appropriate for:
 - Vacation-type or leisure absences (leaving early to play golf, go for a hike, etc.)
 - To start a vacation early or to return late; however, an employee may be allowed to flex their schedule to achieve the same outcome (early start or late return), if approved in advance by their manager.
6. PDAs of one hour or more must be approved through ESS.
7. Employees may be allowed to flex their schedule to accommodate a non-PDA type absence, if permitted by their bureau's policy and approved in advance by their manager. This type of arrangement should be limited to rare occasions and should be closely monitored by the bureau.
 - May flex schedule within the pay period with supervisor approval
 - Needs to use paid leave, if available, to make up scheduled time not worked