

SALT LAKE COUNTY POLICY AND PROCEDURE**OVERTIME AND COMPENSATORY TIME****REFERENCE**

Fair Labor Standards Act as amended.
Human Resources Policy & Procedure:
 Leave Practices
 General Definitions

PURPOSE

To comply with the Fair Labor Standards Act and provide for the uniform and equitable administration of overtime pay and compensatory time off for FLSA nonexempt/covered employees. County divisions, sections or work units may develop internal policies that differ from the general requirements of policy 5420 so long as those policies comply with state law and the FLSA and have been reviewed by the Mayor and the Office of the District Attorney, and approved by the Salt Lake County Council.

PROCEDURE

1.0 FLSA-Employee Classification

There are two types of employment classes in Salt Lake County relative to FLSA requirements, FLSA exempt and FLSA nonexempt/covered.

- 1.1 FLSA-exempt employees are those in executive, administrative and professional positions as defined under the law and the Code of Federal Regulations 29 C.F.R. part 541.
- 1.2 FLSA nonexempt/covered employees are generally non-policy making administrators, managers, and supervisors, technicians, protective service workers, paraprofessionals, office and clerical workers, skilled craft workers, and service maintenance workers.

2.0 Qualifying Conditions Applying to Accrual and Compensation of Overtime of FLSA-Covered Employees

- 2.1 Covered employees must be compensated at time and one-half their regular rates for hours actually worked over 40 in a work-week. FLSA nonexempt\covered employees may be granted compensatory time off, in lieu of cash payment, for overtime hours worked at a rate of not less than one and one-half hours of compensatory time for each hour of overtime worked. Compensatory time off will be preserved, used or exchanged for cash payment in accordance with this Policy & Procedure and with the FLSA.
- 2.2 The County standard work week shall be from 12:01 a.m. Sunday to 12:00 midnight Saturday. Other work-weeks as proposed in an agency specific policy must be approved by the Mayor or Elected Official, through Human Resources, and Council prior to adoption. Divisions may opt to work a flexible work schedule within a standard or authorized agency work-week of 40 hours while ensuring compliance with County policy and the FLSA.
- 2.3 Holidays, vacation, sick leave, compensatory time used and other paid leave such as jury duty, military leave and funeral leave shall not be counted as time

worked for purposes of calculating overtime.

- 2.4 Administrators may direct an employee to work overtime. Administrators may elect to make cash payments for overtime instead of granting compensatory time off. Overtime payments shall be as follows:
 - 2.4.1 Cash Payment - at one and one half (1 1/2) times the regular rate for actual hours worked in excess of 40 in a standard work-week.
- 2.5 Compensatory time off, for overtime hours worked, may be provided in lieu of cash payment under provisions of this policy.
 - 2.5.1 An employee and their supervisor may negotiate actual payment for overtime prior to the performance of work.
 - 2.5.2 Overtime hours are compensated at the rate of one and one-half (1 1/2) hours for each hour of overtime worked;
 - 2.5.3 Employees engaged in emergency response or seasonal activities are allowed to accumulate no more than 480 hours (320 overtime hours actually worked), and all other employees no more than 240 hours (160 overtime hours actually worked). Overtime hours worked over these limits shall be compensated in cash.
 - 2.5.4 A FLSA-covered, terminated employee shall be compensated in cash for any compensatory time remaining on the books at a rate not less than the average rate of pay received by the employee during the last three (3) years or the final regular rate received by the employee, whichever is higher.
 - 2.5.5 Compensatory time shall be utilized within a reasonable time period not to exceed three (3) years. Compensatory time not utilized within three (3) years shall be paid in cash.
 - 2.5.5.1 An employee who requests compensatory time off shall be permitted to use such time within a reasonable period of time if operations are not unduly disrupted.
 - 2.5.5.2 Administrators may direct an employee to take compensatory time.
 - 2.5.6 Compensatory time balances for an FLSA nonexempt employee shall be paid down to zero in the same pay period that the employee is transferred from one payroll unit to a different payroll unit unless the new agency agrees to receive the employee's accrued compensatory time.
 - 2.5.7 Compensatory time balances for an FLSA nonexempt employee who is transferred, promoted, reclassified, or reassigned to an FLSA exempt position shall be paid down for unused compensatory time balances.
- 2.6 Where an employee in a single work-week works at two or more different types of work for which different straight-time rates have been established, the employee's regular rate for that week is the weighted average of such rates. That is, the earnings from all such rates are added together and this total is then divided by the total number of hours worked at all jobs.

- 2.7 County employees will not be paid for overtime unless they are FLSA-covered employees and the total number of actual hours worked in a standard or other approved work-week exceeds 40.
 - 2.7.1 If FLSA nonexempt\covered employees work a paid second job for another County agency, then all hours worked for both (all) agencies during the standard work-week shall be considered jointly for purposes of calculating overtime.
 - 2.7.2 The Administrator, as authorized by the Department Director or Elected Official, of the primary payroll unit may limit employment of subordinate employees in other County divisions, departments or elected offices if such employment adversely impacts his or her budget on a long term basis or interferes with work performance or the availability of an employee to perform regularly assigned duties.
 - 2.8 Volunteers are exempt from FLSA minimum wage and overtime requirements and are not considered employees of the County for pay purposes. They may receive a nominal fee, reimbursement for expenses, or reasonable benefits.
 - 2.9 County employees may not volunteer to perform the same services for the County they provide on a regular basis as a paid employee. They may however, provide such services for a different government employer.
- 3.0 Compensation for merit FLSA-covered employees during a premium holiday.
- 3.1 Merit FLSA-covered employees who are required to work on a premium holiday shall receive premium holiday pay for the actual hours worked during the holiday. FLSA-exempt employees are not eligible for premium holiday pay.
 - 3.1.1 Temporary employees are not eligible for premium holiday pay but are entitled to overtime pay if the actual hours worked during the standard work-week exceed forty.
 - 3.2 Premium holiday pay shall constitute holiday pay in addition to payment for actual hours worked at time and one half (1 1/2).
 - 3.3 Premium holiday pay is granted only when an employee is required to work on the date when the premium holiday is celebrated irrespective of whether that day is a work day.
 - 3.3.1 Employees who are required to work both on the day when a premium holiday is celebrated and on the day when the premium holiday is observed by Salt Lake County, shall receive premium holiday pay only for the day when the holiday is celebrated.
 - 3.3.1.1 Employees who work on the day when the premium holiday is observed shall receive payment for actual hours work at a straight time rate unless the overtime requirements are met.
 - 3.3.2 Employees who are required to work on the day when a premium holiday is observed by Salt Lake County and who do not work when the holiday is celebrated shall receive premium holiday pay for the day when the holiday is observed.

- 3.4 Employees shall not receive in excess of 96 hours of holiday pay per year.
- 3.5 Employees who work a premium holiday and take another day off as the substitute for the holiday shall not receive holiday pay for having worked the premium holiday.
 - 3.5.1 These employees shall be compensated at one and a half times for the actual hours worked during the premium holiday. Holiday pay shall be granted on the day the employee is taking off as the substitute holiday.
- 3.6 Premium holiday pay is only granted to employees who are required by their supervisors to work during a premium holiday.
 - 3.6.1 Failure to be scheduled to work on a premium holiday is not a grievable action.
- 4.0 Compensation for FLSA Nonexempt/Covered Employees Assigned to be On-Call and Called-Back to Work
 - 4.1 At the discretion of an administrator, employees shall be assigned, in advance, to be on-call. During on-call, an employee has freedom of movement in personal matters but required by an administrator to be reachable to return to work within a specified time frame.
 - 4.2 On-call employees shall be restricted from doing anything that would impair their ability to perform their jobs safely if called back to work.
 - 4.3 Offices and divisions shall establish On-Call/Call Back standard operating procedures.
 - 4.3.1 Employees assigned to an on-call status are **required** to be available to respond to a call back request.
 - 4.3.2 Employees shall have a specified period of time to respond to any call back requests.
 - 4.3.3 Employees shall, in so far as possible, handle calls over the phone rather than returning to work.
 - 4.3.4 With the consent of the Administrator, employees may trade on-call assignments with others.
 - 4.3.5 The Administrator shall monitor the frequency of calls to ensure that the employee has the freedom to effectively use the on call time for their own purposes. Non-critical calls are to be held over for resolution during normal working hours.
 - 4.3.6 For each week of 168 continuous hours the employee is assigned to be on-call, they shall receive a premium of four (4) hours of straight time pay. For periods of less than seven (7) days the minimum premium pay shall be pro-rated and rounded to the nearest whole hour:
 - (6 days = 3 hours; 5 days = 3 hours; 4 days = 2 hours;
3 days = 2 hours; 2 days = 1 hours; 1 days = 1 hours)

- 4.5 On each occasion that an employee is required to return to work to perform an unanticipated and unscheduled work assignment, usually of an emergency nature, the employee shall be credited with a minimum of three hours of work time paid at one and one half times the employee's regular hourly rate.
 - 4.6 If the call back assignment lasts longer than three hours, the employee shall be credited with all hours actually worked. However, only the first three hours will be paid at one and one half times the employee's regular hourly rate; all remaining hours will be paid at straight time unless the FLSA overtime provisions are met.
 - 4.7 Home-to-work and work-to-home travel during a call back situation shall be considered work time and shall be included as hours worked and credited for overtime pay purposes and count toward the three hour minimum call back time.
 - 4.8 When an employee designated as on-call responds to a phone call not requiring a return to work, they shall be compensated for the actual time worked when such time exceeds a cumulative total of 7½ minutes, rounded to the nearest quarter (¼) hour.
- 5.0 FLSA-Exempt Employee Overtime Eligibility
- 5.1 Cash payment for exempt overtime is not permitted under any circumstances during employment, transfer or upon termination.
 - 5.2 Compensatory time off for FLSA-exempt employees shall be awarded at straight time. However, the decision to provide compensatory time off shall be at the discretion of the Administrator as authorized by the Department Director or Elected Official.
 - 5.2.1 Administrators shall adopt written internal policies regarding compensatory time off for those employees exempt from the FLSA. Further, they shall determine whether such policies shall apply on a section, division, or department/ office-wide level. All County divisions, departments and elected offices shall have such a written policy, or they shall be assumed to follow this policy in the accumulation of compensatory time for FLSA-exempt employees.
 - 5.2.1.1 All internal written policies must be reviewed by the Human Resources Division for consistency with this policy and be approved by the Council.
 - 5.2.1.2 All written policies shall require prior approval of the accumulation of compensatory time hours, though departmental and division policies may establish exceptions, subject to Council approval.
 - 5.2.2 No more than eighty (80) hours of compensatory time may be accumulated by FLSA-exempt employees.
 - 5.2.3. Compensatory time accrued by an FLSA-exempt employee is not transferable at any time.
 - 5.3 FLSA-exempt employees may be employed in second part-time jobs with Salt

Lake County. FLSA-exempt employees shall be paid straight time for hours worked on a second part-time job with the County, such as seasonal or emergency, if the second job is also exempt. If the second part-time job is FLSA nonexempt\covered, the employee may be entitled to overtime at 1 1/2 times the regular rate and may require approval from the Department Director or Elected Official and Human Resources Division. Consult with the Human Resources Division in these cases.

6.0 Record Keeping

- 6.1 Payroll units shall ensure that the following information is recorded for every employee:
 - 6.1.1 Full name of employee;
 - 6.1.2 Daily and **weekly hours** of work for each standard work week;
 - 6.1.3 Employees must verify all hours worked either electronically or in writing.
 - 6.1.4 The records must be kept for 3 years.
- 6.2 The Payroll Time and Attendance Register shall include all overtime for pay calculated on the basis of the standard work week and must be reported on the first T & A Register possible after completion of the pay period.
- 6.3 The use of alternative social security numbers for payroll purposes shall be prohibited.
- 6.4 Hours worked by employees outside of a primary employer's regular payroll unit shall be paid for such hours from their regular payroll unit. The regular payroll unit will make a journal entry for reimbursement from the payroll unit for which hours were actually worked.

APPROVED AND PASSED THIS 20TH DAY OF OCTOBER, 2009.