



Administrative Regulations Office of the Mayor

Title: OVERTIME, COMPENSATORY TIME, AND DEDUCTION IN PAY FOR EXEMPT EMPLOYEES INSURANCE
COVERAGE

A.R. Number: 4.5 **Effective Date:** 2/1/2007 **Page:** 1 of 3

Supersedes: Overtime and Compensatory Time **A.R.:** 4.5 **DATED:** 9/1/2000

I. POLICY

It is the policy of the City of Richmond to establish and maintain regulations and guidelines regarding overtime compensation that will allow the City to ensure continued compliance with the Fair Labor Standards Act (FLSA).

The FLSA seeks to limit the number of hours worked by requiring additional pay, called overtime pay, for hours worked in excess of the applicable statutory maximum. The Fair Labor Standards Act does not limit the number of hours that an employee may work, either daily or weekly. It simply requires that overtime pay must be paid at a rate of not less than one and one-half times the non-exempt employee's regular rate of pay for each hour worked in a workweek in excess of the maximum hours applicable to the type of employment in which the employee is engaged. This usually means overtime is for work in excess of 40 hours per week. Different standards, however, apply to employees engaged in law enforcement and fire protection activities. The FLSA does not generally require that an employee be paid overtime compensation for hours worked in excess of 8 per day, or for work on Saturdays, Sundays, holidays or regular days of rest, so long as the maximum number of hours in the work week (or other allowed work period) as prescribed in the Act, are not exceeded. It is the City of Richmond's policy to exclude vacation, sick, holiday or compensatory time or other leave time as hours worked for the purposes of computing overtime. Only non-exempt employees are entitled to overtime or compensatory time under the Act.

It is the policy of the City of Richmond to comply with all applicable wage and hour laws and regulations. Accordingly, the City of Richmond intends that payment of wages and deductions from pay occur only in circumstances permitted by all applicable laws and regulations governing the pay of exempt and non-exempt employees.

II. PROCEDURE

A. Definitions

1. Exempt refers to a position that is not subject to overtime and minimum wage provisions of the FLSA. An employee with questions concerning exempt and non-exempt status should notify his or her supervisor or Human Resources.
2. Non-Exempt refers to a position covered by FLSA, overtime and minimum wage provisions.
3. Overtime is generally defined as working more than 40 hours during the workweek. In most cases, the workweek is the period 12:00 a.m. Saturday morning to 11:59:59 p.m. the following Friday. However, the FLSA also provides for the declaration of a longer "work period" for law enforcement and fire protection personnel.
4. Compensatory time is the means by which the law authorizes a public agency to provide time off to non-exempt employees in lieu of monetary overtime compensation. The rate of compensatory time accrued is to be not less than one and one-half hours of compensatory time for each hour of overtime worked. Compensatory time is limited. Non-exempt employees must be paid overtime for time worked beyond the applicable statutory threshold.



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5. Deduction: Reduction in pay that is offset with a bona fide plan, policy, ordinance or practice of providing compensation for loss of salary due to sickness, illness or other absence from the workplace. Reduction in pay that is in accordance with a bona fide plan, policy, ordinance or practice, and all applicable laws and regulations for adjusting compensation to the employee for loss of salary due to sickness, illness or other absence from the workplace. The amount of a deduction will be calculated using the hourly, daily or any other equivalent amount that is proportional to the employee's full salary and the time the employee was actually absent from work.
6. Bona Fide Plan, Policy, Ordinance or Practice: Any plan, policy, ordinance or practice for providing or adjusting compensation due to sickness, illness or other absence from work that is in accordance with all applicable laws and regulations governing the City of Richmond employees. Examples may include, but are not limited to: sick leave, vacation leave, compensatory time, disability, civil leave, disciplinary leave, initial or terminal week of employment.

B. General

1. An Appointing Authority, or designee may authorize overtime work when necessary to meet City emergencies or other operating requirements. Official overtime work shall mean approved overtime worked.
2. It is the responsibility of employee and supervisor to record compensatory time as it is worked. The supervisor is responsible for submitting the record of compensatory time as it is worked to payroll to be tracked in the payroll system.
3. Exempt employees may be called on to perform overtime work without being allowed either additional payment or compensatory time off. Although the City does not pay such employees for overtime, an Appointing Authority may, at his discretion, grant excused time off in recognition of such service where circumstances permit. Such excused time off shall not be transferable to other City agencies.
4. Non-exempt employees may also be called on to perform overtime work. Such persons shall receive either payment for official overtime work at the rate of one and one-half times their regular rate for all hours of overtime beyond their normal work period schedules; compensatory time at a rate of one and one-half times the amount of official overtime; or a combination of overtime pay and compensatory time. For compensatory time, an agreement or understanding must be reached between the employer and the employee before the performance of work, and a record of this agreement must be kept. Upon termination of employment, an employee must be paid for unused compensatory time.
5. Non-exempt, general employees can accumulate up to 240 hours of compensatory time before any overtime payment must be made. All compensatory time must be used during the fiscal year in which it was accumulated.
6. Fire and Emergency Services, and Police. Under section 7(k) of the Act, the work period must be not less than 7 and no more than 28 days. The work period, rather than the shift cycle, would determine when overtime must be paid. For Firefighters overtime is required for time worked over 212 hours in a 28-day period. For Police Officers it is required for time worked over 171 hours in the work period. Public Safety employees can accrue up to 480 hours of compensatory time before any overtime payment must be made.



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7. An employee who has accrued compensatory time off and who has requested the use of such compensatory time shall be permitted by the employee's employer to use accrued compensatory time for the period requested, or within a reasonable period of time after making the request, if the use of compensatory time does not unduly disrupt the operations of the public agency. When compensatory time is used, compensation shall be paid to the employee at the regular rate earned by the employee at that time.
8. Upon separation, an employee who has accrued compensatory time off shall be paid for the unused compensatory time in accordance with the current FLSA regulations.
9. In the event that a non-exempt employee is promoted to an exempt position, compensatory time accrued will be paid up to the statutory maximum at the rate of pay held prior to the promotion.
10. Improper pay deductions specified in the FLSA and by the Department of Labor laws and regulations may not be made from the pay of exempt employees.
11. If an exempt employee believes an improper pay deduction has been made, the employee should immediately notify his/her supervisor or Human Resources. Reports of improper deductions will be investigated in a reasonable time given all the facts and circumstances. If an investigation determines that an employee was subjected to an improper pay, the employee will be reimbursed for the amount of the improper deduction and the City of Richmond will take any steps it deems appropriate to ensure proper compliance in the future.

III. AUTHORITY

Fair Labor Standards Act

IV. REGULATION UPDATE

The Office of the Mayor and the Department of Human Resources shall be responsible for modifications to this Policy.

APPROVED:

MAYOR