

## **02. PERSONNEL**

### **2.10. Fair Labor Standards Act Provisions**

BOS Adopted – Jul 1, 2004

For FLSA provisions pertaining to employees of the Sheriff's Office, see the Sheriff's policy manual.

**2.10.1. Definition of Employee.** The term employee does not include any individual who volunteers to perform a service for this public agency. This is true as long as the individual is paid a minimum fee and the service performed is not the same type of service that the individual is employed to perform for the County. An employee of the County may volunteer to perform services for any other public agency and they are encouraged to do so to promote the general public welfare of this community, so long as it does not conflict with or interfere with the performance of existing job duties.

**2.10.2. Overtime Policy for Hourly Employees.** The authorization and control of all overtime work is the direct responsibility of the department head. All overtime work must be approved by the Department Head in advance of the work performed and in writing. Overtime assignments are permitted only when required by operational necessity, and without which the normal functioning of the agency concerned would be adversely affected. Department heads must assure adequate funds are available for any payment of overtime work.

A. Overtime Hours Defined. Overtime hours for all eligible employees shall be defined as all those work hours exceeding 40 hours in a one week work period. The official work week shall be Sunday through Saturday for all county departments.

B. Policy. Overtime pay for hourly employees is compensated at the rate of time and one-half for any work hours exceeding forty (40) in a one week work period when requested by the department head or supervisor.

#### **2.10.3. Compensatory Time Policy for Salaried Non-Exempt Employees**

A. Compensatory time for salaried employees who are not exempt from the Fair Labor Standards Act is earned at time and one-half rate for any work hours exceeding forty (40) in any one work week. Additional work hours shall be required only to relieve specific occasional peak work loads and not to provide for additional compensation.

B. Overtime wage payments may be awarded in lieu of compensatory time to salaried non-exempt employees with the approval of the Department Head or Constitutional Officer and Human Resources.

C. It is the responsibility of the Department Head to provide the employee opportunities to use earned compensatory time in order to avoid exceeding the allowed maximum accrual of 240 hours. All hours in excess of the allowed maximum accrual must be paid to the employee.

D. Non-exempt employees who are transferring to another department or who are promoted from a non-exempt to an exempt position shall, prior to assuming the new position, reach an agreement with their department head to use their accumulated compensatory time or to be paid for the unused compensatory time balance. The employee's compensatory balance must be zero prior to the starting date for the new position.

**2.10.4. Flex Time Policy for Exempt Executive, Administrative, and Professional Employees**

A. Nothing in this section is to be construed to undermine the primary definition of an exempt employee being one who works whatever amount of time is necessary in order to perform the duties of their job (8 hours a day or 40 hours per week are not break points of any sort).

B. To further clarify, working longer than usual hours does not equate to hours "earned" for the purpose of flex time and do not accrue or carryover, nor is that time owed to the employee in any way. The use of that time is at the discretion of the Department Head and should be taken only when doing so will not interfere with necessary work or deadlines.

C. This policy applies to those positions listed in section E.3 of this policy.

**2.10.5. Separate and Independent Employment.** In a situation where a County employee, who is engaged in either fire protection or police enforcement activities, and who agrees to be employed on a special detail by a separate or independent employer in related activities, the hours of such separate and independent employment shall be excluded from the calculation of overtime.

**2.10.6. Fire/Rescue Service During Working Hours**

A. Under certain conditions, an employee who is a member of a County Rescue Squad or a County Volunteer Fire Department may respond to emergency calls during working hours. This is permitted only when there is a critical situation and there are not enough other available Squad or Department members to answer a call. Each employee who is a member of a County Rescue Squad or a County Volunteer Fire

B. Department and may want to invoke this provision must initially receive, in advance, a one-time approval from the County Administrator.

C. After having responded to a call during work hours, such call must be logged with the Department Head immediately after the employee returns to work. No regular shifts should be scheduled during regular working hours.

**2.10.7. Part-Time Employment.** If a County employee undertakes on occasion or sporadic basis, solely at his or her option, part-time employment for the County which is different from

his or her regular employment, the hours of different employment shall be excluded from the calculations of overtime compensation.

**2.10.8. Substitute for Another Employee.** If an employee agrees, with the approval of his/her department administrator and solely at the option of such individual, to substitute during scheduled work hours for another County employee who is employed in the same capacity, the hours worked as a substitute shall be excluded from the calculation of overtime payment. The County reserves the right not to keep a record of such substitute work hours and maintains that such substitute work was solely on the basis of the employee's agreement.