

employee relations

BULLETIN

June 26, 2000

To: Heads of All Departments
Department Personnel Officers

Subject: **9/80 MODIFIED SCHEDULES DURING HOLIDAYS**

Many departments have asked this Office to clarify certain issues raised from the March 28, 2000 Employee Relations Bulletin regarding the Fair Labor Standards Act (FLSA) Update. This memo will address guidelines for 9/80 modified work schedules during holidays for non-exempt employees.

9/80 Schedule -Holiday

When there is a holiday on a scheduled 9-hour work day, the employee is paid 8 hours of holiday pay. The employee must cover one hour for the 8-hour holiday. The alternatives for covering the one hour are as follows:

- using an hour of vacation
- using compensatory time (as long as any exists on the books)
- working an extra hour during the workweek of the holiday
- paying for only 39 hours

If an employee decides to work the extra hour, it must be worked within the same week of the holiday. Under FLSA compensated time is not counted towards hours worked. Working the extra hour in a different workweek will incur overtime liability in the subsequent workweek. Remember FLSA requires all hours worked over 40 hours in a workweek by non-exempt employees to be either compensated at one and one half times their regular rate of pay in cash or booked at time and one half.

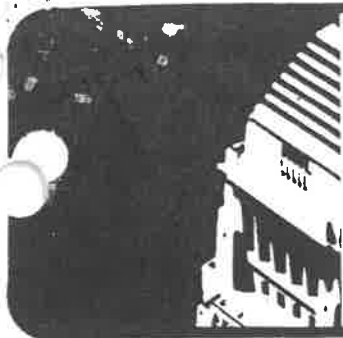
"Short Day" (8 Hours)

The current policy for 9/80 modified work schedules requires employees to take their short day on the same day of the week as their regular day off (RDO). Therefore, until further notice employees may not work an extra hour on their short day in order to make up the extra hour for the holiday. Working an additional hour on their 8-hour split day may incur overtime liability.

Holiday on RDO

When a holiday falls on an employee's RDO, the RDO may be taken on another day within the same week without incurring overtime liability.

Please contact Sally Choi at (213) 485-3503 if you have any questions regarding this matter.



EMPLOYEE RELATIONS BULLETIN

August 21, 1985

Distribution

To: Heads of All Departments of City Government

A & J

Introduction:

The Fair Labor Standards Act (FLSA) imposes its own set of definitions and requirements regarding employee workweeks, hours of work, regular rate of pay, and other terms. It is important that you understand these definitions and how they operate. A series of FLSA Bulletins will be issued addressing specific concepts in order to familiarize you and your staff with the Act's requirements.

Simply stated, the most common application of FLSA concerns non-exempt employees*, whereby the City is bound by the overtime requirements. In general, for non-safety employees, the Act requires non-exempt employees to be compensated at one and one half times their "regular rate"*** of pay in cash for any time worked over 40 hours in a workweek.

FLSA BULLETIN NO. 1 -- WORKWEEK

1. Workweek -- A workweek is a regular recurring period of 168 consecutive hours. A workweek need not be the same as the calendar week. A workweek may begin on any day of the week and at any hour of the day.

It is the responsibility of each department to establish workweeks. A single workweek may be established for all non-exempt employees of the department, or different workweeks may be established for different employees or groups of employees. Once the beginning of an employee's workweek is established, it remains fixed regardless of the employee's work schedule. The beginning of the workweek may only be changed if the change is intended to be permanent and is not designed to evade the overtime requirements of the Act.

For most City employees, the workweek should be the calendar week, i.e., 12:01 a.m. Sunday through 12 midnight Saturday. There will be exceptions as in Nos. 2 and 3 below.

2. 9/80 Modified Work Schedule -- It is feasible to continue the 9/80 plan (working 9 days and 80 hours in a two week period) without incurring any regular overtime liability.

*Non-exempt employees have been designated by class in a list distributed May 20, 1985.
**"Regular rate" will be discussed in a subsequent bulletin.

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For example, a person on the 9/80 with alternative Wednesdays off now receives no overtime compensation for working this schedule.

<u>S</u>	<u>M</u>	<u>T</u>	<u>W</u>	<u>T</u>	<u>F</u>	<u>S</u>	<u>Total</u>
0	9	9	0	9	9	0	36
0	9	9	8	9	9	0	44
							80

Under FLSA each workweek stands alone. If the calendar week is used, four hours of overtime would be worked in the second week. A workweek starting at the midpoint of the Wednesday workday should be established, as follows:

<u>S</u>	<u>M</u>	<u>T</u>	<u>W</u>	<u>T</u>	<u>F</u>	<u>S</u>	<u>Total</u>
			0	9	9	0	40
0	9	9	4	4	9	0	40
0	9	9	0	0	9	0	40
0	9	9	4				

This requires that the day off and the one eight-hour day be on the same day of the week. Separate workweeks will have to be established for each 9/80 configuration.

3. Ten On-Four Off -- Some continuous operations employees work a schedule of ten 8-hour days followed by four days off. Under FLSA, such a schedule is permissible without having any overtime, if the workweek is started after the second day off. In other words, consider the Ten-Four schedule as a Two-Five-Five-Two schedule.

4. 4-10 Modified Work Schedule -- The 4-10 plan (working four 10-hour days a week) causes a problem when a holiday falls on a scheduled work day. If the employee takes the day off, eight hours of holiday pay are paid. Before FLSA, the other two hours were covered with compensatory time off, vacation time, or a two hour debit was put on the books which the employee later had to erase with compensatory time off or work an extra two hours one week. Since compensatory time off, as we know it, will disappear and working an extra two hours in a subsequent week becomes overtime, practices must change.

From now on, the alternatives for covering the two hours when a 4-10 employee takes a holiday off are:

- using compensatory time (as long as any exists on the books)
- using vacation time
- working 32 hours instead of 30 that workweek
- paying for only 38 hours

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5. 9/80 Modified Work Schedule--Holidays -- The same problem of a holiday falling on a scheduled work day occurs with the 9/80 plan as it does with the 4/10 plan, discussed in 4 above. The alternatives for covering the one hour when a 9/80 employee takes a holiday off are:

- using compensatory time (as long as any exists on the books)
- using vacation time
- working 32 hours instead of 31 that workweek
- paying for only 39 hours

6. 28 Day Deployment Period -- Some non-exempt civilian employees are scheduled to work 160 hours in a 28-day period. Schedules must be adjusted so they will work no more than 40 hours in a workweek.

7. Payroll Period -- The City's biweekly payroll period will not change.

8. Record Keeping -- A separate bulletin will be prepared on record keeping. Be forewarned that the records are subject to federal audit and the requirements apply to both non-exempt and exempt employees. Cease all "cuff time" and "supervisor's notebook" timekeeping practices.

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