



Policy &
Procedure

OVERTIME POLICY for HOURLY (NON-EXEMPT) EMPLOYEES

Supersedes:

Date Approved: July 15, 2013

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The City of Duluth is committed to fairly compensating its employees for Hours Worked in compliance with the Fair Labor Standards Act (FLSA). The FLSA classifies employees into two main categories, Exempt and Non-Exempt; this determines the positions that are eligible for Overtime Pay when certain criteria are met. The City’s collective bargaining agreements (“CBAs”) may provide for Overtime Pay in circumstances not required under either the FLSA or Minnesota law. In those instances, the terms of the CBA shall govern. Failure to follow this policy and to correctly record and verify Hours Worked by any employee, including supervisors, shall result in disciplinary action, up to and including termination.

Definitions

Fair Labor Standards Act of 1938, as Amended (“FLSA”): Establishes Overtime Pay and recordkeeping affecting full-time and part-time workers.

Position Designation: Determination of Exempt or Non-Exempt status based on an analysis of the position’s duties and responsibilities, nature of work, conditions of employment and criteria set forth in the FLSA and related federal rules and regulations.

Exempt Employee: An employee holding a position not covered by or subject to the Overtime requirements and regulations of the FLSA, generally including those of a managerial, administrative or professional nature as defined by the FLSA.

Non-Exempt (Hourly) Employee: An employee holding a position covered by and subject to the Overtime requirements and regulations of the FLSA, generally including those of a clerical, technical, or service nature as defined by the FLSA.

Hours Worked: Hours actually worked by an employee, including employer-approved paid breaks of 15 minutes or less. Hours Worked generally includes time when employees are required to be on duty or at the employer-prescribed work site. For employees covered by the current collective bargaining agreement between the City of Duluth and Local 101 International Association of Firefighters and Duluth Police Union Local 807, Hours Worked includes authorized vacation, compensatory time off, personal leave, and funeral leave. Hours Worked for all other hourly employees does not include paid time off such as vacation, holiday, personal leave, sick leave, and funeral leave hours.

Compensatory Time Off (in Lieu of Overtime Pay): Approved time off in lieu of Overtime Pay for irregular or occasional Overtime work. Approved Compensatory Time Off (in Lieu of Overtime Pay) shall be granted at one and one-half (1.5) the number of hours of Overtime Worked.

Work Site: Location at which the employer has directed the employee to perform work.



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I. Overtime Scheduling and Computation

1. Overtime shall be held to a minimum, consistent with the needs of the City and service to all citizens. Each Department shall be responsible for exhausting other alternatives prior to assigning Overtime work. Overtime work shall only be authorized in the event of an emergency or when service demands result in no other reasonable alternative. Careful oversight must be exercised by supervisors who authorize Overtime work. Employees shall **not** work Overtime without the prior approval of their supervisor.

Working Time Limitations

1. Employees shall **not** work prior to or following their scheduled hours of work unless directed to do so by their supervisor.
2. Employees shall **not** take work home or work while at home unless directed to do so by their supervisor.
3. Employees shall **not** work during any Meal Break except at the direction of the supervisor.

II. Travel Time

Employee travel shall be conducted during regularly scheduled work hours whenever possible. Employee travel outside regularly scheduled work hours must be pre-approved by the employee's supervisor. Whenever possible, employees shall carpool, and supervisors shall have an Exempt Employee drive carpool vehicles when travel occurs outside regularly scheduled work hours.

1. Travel time from home to work before the regular work day and from work to home at the end of the regular work day is **not** considered Hours Worked. This is true even when employees are driving a City vehicle.
2. Travel time from Work Site to Work Site during the normal workday is considered Hours Worked. Travel time from home to the first Work Site of the day and from the last Work Site of the day to home is **not** considered Hours Worked. If the Employer requires employees to pick up and/or drop off a City vehicle at a location other than the regular Work Site that location is considered a Work Site, and time spent driving from and to that location are considered Hours Worked.
3. Travel time from home to work in emergency situations outside of normal working hours is **not** considered Hours Worked when employees travel to their regular Work Site prior to reporting to the emergency Work Site. Whenever possible, employees shall be required to first report to their regular Work Site in these situations.
4. Whenever possible, travel to attend an approved seminar or training session shall occur during regularly scheduled work hours. When this is **not** possible, and upon supervisor approval, the following shall apply:



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- a. Time spent driving to and from the seminar or training session shall be considered Hours Worked for the driver of the vehicle. The employee's normal meal period and commute time to and from home to work shall be deducted from the total.
- b. If an Employee is a passenger in an automobile, airplane, train, boat or bus, only time that overlaps the Employee's regularly scheduled work hours shall be considered Hours Worked. Time spent as a passenger before or after regularly scheduled work hours shall **not** be considered Hours Worked, unless that Employee actually performs work while traveling. Unless authorized by a supervisor, Employees shall be instructed **not** to perform work during nonscheduled work hours when traveling.
- c. Travel time as a passenger to a seminar or training session during a non-scheduled work day only counts as Hours Worked for that amount of time that overlaps the Employee's regularly scheduled work time had the travel occurred during a regularly scheduled work day. For example, if the Employee regularly works 8:00 a.m. to 4:30 p.m. Monday through Friday, only travel time during those hours on Saturday and Sunday is considered Hours Worked. Travel time to a seminar or training session on non-work days that does not overlap the regularly scheduled work hours is **not** considered Hours Worked for any Employee except the driver.

III. Training Time

- 1. Attendance at lectures, meetings, training programs and similar activities which have been approved by the supervisor or manager are compensable Hours Worked when any of the following criteria are met:
 - a. Attendance is during regular working hours;
 - b. Attendance is required by the Employer;
 - c. The course, lecture, or meeting is directly related to the employee's job and necessary in order to perform current job duties; or
 - d. The employee is concurrently performing other work for the Employer while attending the training.
- 2. While time spent attending Employer-required training is normally considered compensable Hours Worked, the following time is **not** compensable Hours Worked:
 - a. Time spent by an employee who, on his/her own initiative, attends an independent school or training program after working hours, is **not** considered Hours Worked.
 - b. An employer may establish a program of general instruction for its employees which corresponds to courses offered by independent institutions of learning. If such training may be a condition or practice of an employee's profession, but cannot be tailored to meet the specific needs of the employer, then voluntary attendance at such course outside of working hours would not be Hours Worked even if they are directly related to an employee's job and/or are paid for by the employer.



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- c. Attendance outside of regular working hours at specialized or follow-up training, which is required by law for certification within a particular government jurisdiction (e.g., certification for emergency rescue workers), even if the training is paid for by the employer, is **not** Hours Worked.
- d. Attendance outside of regular working hours at specialized or follow-up training, which is required for certification of employees where a State or county law imposes a training obligation on City employees, even if the training is paid for by the employer, is **not** Hours Worked.

IV. Recordkeeping

- 1. All actual work time shall be recorded on time records by the employee and shall be verified by the employee and the supervisor. Any employee working an approved flexible schedule must record the actual Hours Worked each day.
- 2. All supervisors are responsible for reviewing and verifying employee time records for accuracy.
- 3. The Payroll Division is responsible for ensuring appropriate recordkeeping systems are in place to comply with FLSA requirements.
- 4. Employees who intentionally falsify time records, supervisors who knowingly approve falsified time records, and timekeepers that knowingly process falsified time records are subject to disciplinary action including discharge.

V. Overtime/Compensatory Time Off Payment

- 1. Overtime payments shall be made on the paycheck covering the pay period in which the Overtime was actually worked.
- 2. Compensatory Time Off shall be approved per the terms of the applicable CBA. In most cases, to maintain productivity levels, Overtime Pay shall be granted instead of approving Compensatory Time Off.
- 3. An employee's request to use Compensatory Time Off shall be granted at the discretion of the manager within a reasonable period after making the request if the use of the Compensatory Time Off does **not** unduly disrupt the operations of the Department as determined by the manager. The manager shall not grant such requests automatically, but shall base each decision on the effect allowing the time off would have on Department operations. Whether a request to use Compensatory Time Off has been granted within a reasonable period will be determined by considering the customary work practices within the Department based on the facts and circumstances in each case. Such practices include, but are not limited to
 - a. The normal schedule of work;
 - b. Anticipated peak workloads based on past experience;
 - c. Emergency requirements for staff and services; and
 - d. The availability of qualified substitute staff.



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4. Pursuant to the FLSA, employees may not accumulate more than 240 hours of compensatory time off at any time during the calendar year, except that police officers and fire fighters may accumulate not more than 480 hours of compensatory time off at any time during the calendar year. Employees having more than the applicable 240 or 480 accrued and unused compensatory time off hours during the calendar year are **not** eligible to accrue additional compensatory time off; employees must receive cash compensation for overtime hours worked until they use (reduce) their current accrued compensatory time off balance.
5. Accrued Compensatory Time Off balances that exist at the end of the day on December 31 of each year shall be converted to cash and either paid to the employee or deposited into the employee's post employment health care savings plan account per the employee's applicable collective bargaining agreement.