

SUBJECT: Overtime Compensation

1. PURPOSE: Provide Guidelines for Eligible for Overtime

2. POLICY:

2.1 Non-Exempt Employees

- a. Except as provide below, employees in positions designated as “non-exempt” will be eligible for overtime compensation as follows:
 1. Employees whose normal work schedule is 8 hours a day will receive overtime compensation for hours worked in excess of 8 hours in a day and in excess of 40 hours in a week.
 2. Employees whose alternative normal work schedule is between 8 and 10 hours in a day will receive overtime compensation for hours worked in excess of 10 hours in a day and in excess of 40 hours in a week.
 3. Employees who request and are approved for a variable workday or variable 80-hour work period (peace officers and/or line firefighters only) as provided in NRS 281.100 will receive overtime compensation for hours worked in excess of the bi-weekly work period as allowed under Section 207(k) of the FLSA.
 4. Employees whose hours are established by collective bargaining agreement will receive overtime accordingly, but not in violation of the NRS or Fair Labor Standards Act.
- b. Per NRS 281.100 and the Section 207(k) of the Fair Labor Standards Act, employees working as firefighters, peace officers, jailers/corrections officers, or sheriff’s deputies with a formalized policy or agreement with the employer, may work longer workweeks or workdays.
 1. Employers of peace officers, jailers/corrections officers, or sheriff’s deputies may establish in-writing a work period of 171 hours within a 28-day period.
 2. Employers of firefighters may establish in-writing a work period of 212 hours within a 28-day period.
 3. For peace officers, jailers/corrections officers, sheriff’s deputies, and firefighters, these work periods must be established as regularly occurring and by an affirmative statement by the employer that such a work period is established.
 4. If the biweekly work period for peace officers, jailers/corrections officers, sheriff’s deputies, or firefighters is not established, these employees are subject to overtime compensation after 40 hours worked in a 7 day week per NRS 281.100 and the Fair Labor Standards Act.

- c. All overtime hours must be specifically authorized in advance by the department head. Overtime will be compensated at 1.5 times the employee's regular rate of pay. An employee's regular rate includes all payments made by the employer to the employee. Examples of payments to be included in calculating the regular rate are on-call pay, shift differential, hazard duty pay, and longevity pay. Paid overtime will be included in the same paycheck covering the pay period in which the overtime was earned unless the correct overtime amount cannot be determined until after the regular pay period.
- d. Employees, not including line firefighters, who earn overtime may, with the approval of the department head or supervisor, subject to approval by the Administrative Officer and/or Personnel Director, elect to receive compensatory time ("comp-time") off in lieu of overtime pay. Requests for compensatory time off in lieu of overtime must be made in-writing and, once approved, will be placed in the employee's payroll file. Compensatory time will be earned at the rate of one and one-half (1.5) hours off for each overtime hour worked. Non-peace officer employees who elect compensatory time off may accrue up to 60 hours in a calendar year. Peace officer employees may accrue up to 240 hours in a calendar year.
- e. When an employee has exceeded the maximum number of hours specified, the excess hours will be paid out to the employee as overtime pay. Notice to the department head or supervisor of request to use compensatory time off, the use of compensatory time off, and limitations thereof will be the same as that specified for annual leave in Policy 602 Annual Leave. At any time, the employer may pay an employee for compensatory time earned and not used, or schedule use at its discretion.
- f. Time paid but not worked, such as sick leave, holidays, and annual leave, does count toward hours worked for the purpose of computing overtime hours.
- g. Firefighters and peace officers may receive overtime pay in accordance with Section 207(k) of the Fair Labor Standards Act. Refer to the applicable collective bargaining agreement or applicable provisions in this policy for special overtime requirements.

CAUTION: Paramedics serving in the dual capacity of paramedic/firefighter must meet certain requirements to be covered by the Fair Labor Standards Act (FLSA) 207(k) overtime exemption. To qualify, the paramedic/firefighter must:

- Be employed by an organized fire department or fire protection district;
- Be trained in fire suppression and protection;
- Have the legal authority and responsibility to engage in fire suppression, to include the prevention, control and extinguishing of fires, and;
- Perform activities which are required for the prevention, control or extinguishment of fires.

Absent these requirements, a paramedic must be paid overtime subject to the rules for non-exempt employees as outlined above.

2.2 Exempt Employees

Generally, exempt employees are hired with the understanding that they are responsible for accomplishing the duties required for their assigned position. It is the employer's policy to comply with all aspects of the FLSA including salary-basis requirements. Therefore, making any deductions from the salaries of exempt employees which are not allowed by law is by policy prohibited.

Consistent with the FLSA and NRS 281 employees in exempt positions are not required to be paid for overtime worked. Subject to certain exceptions set forth in the regulations, an exempt

employee will be paid the full salary for any work week in which the employee performs any work, regardless of the number of days or hours worked. Exempt employees will not need to be paid for any work week in which they perform no work, unless the employee is on approved paid leave.

- a. It is expected that in order for exempt employees to complete their assigned work from time to time, it will be necessary that they work beyond the normal work days and business hours (usually 8:00 a.m. to 5:00 p.m., Monday through Friday) of the employer. If, however, an exempt employee is working well beyond a 40 hour work week on a regular recurring basis, the Personnel Director/Administrative Officer may examine staffing levels and the employee's work habits and procedures.
- b. Employers that have a bona fide annual and sick leave policy may deduct a partial days' absence from an employee's accrued leave, but not from the employee's pay or salary. Accordingly, if the employee does not have accrued leave and still works part of a day, the employee must be paid their full salary. However, if an employee does not have accrued leave or does not qualify to use leave and is absent for a full day then the employer can deduct from the employee's pay or salary for that full day.
- c. Deductions will also be made to offset amounts employees receive as jury or witness fees, or for military pay; or for unpaid disciplinary suspensions of one or more full days imposed in good faith for workplace conduct rule infractions. The employer will pro rate an employee's salary based upon the days worked during the initial and terminal pay period of employment.
- d. Exempt employees are generally expected to be available to perform their job duties during normal business hours (usually 8:00 a.m. to 5:00 p.m., Monday through Friday). It is expected that in order for exempt employees to complete their assigned work from time to time, it will be necessary that they work beyond the normal work days and business hours of the employer. If, however, an exempt employee is working well beyond a 40-hour workweek on a regular recurring basis, the employer may examine staffing levels and the employee's work habits and procedures.
- e. Exempt employees who have completed an extraordinary work assignment and/or spent substantially more time than a typical workweek to accomplish the job, may be recognized at the sole discretion of the County Manager with:
 - Up to 20 hours/days of time off without using accrued annual or sick leave. The time off granted under this provision does not constitute compensation and, thus, has no cash value.
 - Additional compensation (e.g., flat sum, bonus payment, straight-time hourly amount, time and one-half, or any other basis). Such additional compensation will not void their otherwise exempt status as specifically provided under the FLSA.
- f. Exempt employees may be eligible for overtime pay under the conditions provided for in Policy 610, D7 Emergency or Disaster Area Declaration.

2.3 "Safe Harbor"

The Personnel Director/Administrative Officer will classify employees as exempt or non-exempt in accordance with the Fair Labor Standards Act and NRS. If an employee feels s/he is improperly classified, s/he should request a review of the position classification from Personnel Director and/or Administrative Officer. An investigation will be conducted on a timely basis and

employer will act to correct any errors as soon as practicable. The employer will not make improper deductions of pay from any employee, regardless of exempt or non-exempt status. Improper deductions should be reported to the Comptroller and the Personnel Director/Administrative Officer. The complaint will be investigated and employer will act to reimburse the employee as required by the FLSA if an error is found. The employer will continuously make a good faith commitment to comply with all provisions of the FLSA and NRS and intends this policy of correction to satisfy the "safe harbor" provisions of the FLSA regulations, as amended effective August 23, 2004.

If a non-exempt employee feels s/he has been improperly paid for overtime under the FLSA or state law, it is the responsibility of the employee to seek correction by reporting any error to the department head. An investigation will be conducted on a timely basis and employer will act to correct any errors as soon as practicable.

RESPONSIBILITY FOR REVIEW: The County Personnel Director and/or Administrative Officer will review this policy every 5 years or sooner as necessary.

**STOREY COUNTY ADMINISTRATIVE
POLICIES AND PROCEDURES**

NUMBER 503
EFFECTIVE DATE: 11-10-08
REVISED: 4-05-11/01-02-
18/05-19-2020
AUTHORITY: BOC
COUNTY MANAGER: AOA

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