



City Manager's Approval: _____
Date Approved: April 30, 2002

THE CITY OF POMONA

ADMINISTRATIVE POLICIES AND PROCEDURES

FAIR LABOR STANDARDS ACT – APPLICATION

I. PURPOSE

To ensure that the Fair Labor Standards Act (FLSA) regulations are appropriately and consistently applied to non-exempt employees.

II. APPLICABILITY

This Policy applies to all **non-exempt** (sworn and civilian) full-time and hourly, part-time employees.

III. POLICY

The City of Pomona is committed to administering the regulations of the Fair Labor Standards Act appropriately and consistently as they apply to non-exempt employees. The guidelines listed below represent only a portion of the FLSA and it provides procedures for some of the major FLSA areas utilized by the City of Pomona. These guidelines are intended to reduce the organization's liability under the Fair Labor Standards Act.

It is the responsibility of each immediate supervisor and Department Director to ensure the application of this Policy.

IV. PROCEDURE

A. Civilian Work Period

1. For those employees working a 9/80 schedule, the workweek starts at 12:00 p.m. on their eight-hour workday and ends at 11:59 a.m. seven days later. For those employees who have a start time other than 8:00 a.m., the workweek starts at the mid-point of their eight-hour day and ends 168 hours later.
2. Employees working the 9/80 work schedule cannot move their regular day off.

Safety (Sworn) Work Schedules

The City has adopted Section 207(k) of the FLSA, commonly known as section 7(k) that designates a work period from 7 to 28 days for its police employees. As set forth in the PPOA MOU, the Section 7(k) exemption has been adopted by the City. The City must pay police officers FLSA overtime once they have actually worked more than 171 hours in a 28-day work period.

B. **Compensatory Time Off (CTO) Usage**

1. At the time of separation or when paying out during employment, if an employee in his/her last three (3) years of employment has a salary reduction, the employee's CTO must be paid at the "average regular rate of pay" over the last three (3) years of employment.
2. The time in which Police Officers spend participating in their monthly qualifying shoot must be considered hours worked. It if triggers an overtime obligation, the City must compensate Police Officers in accordance with the PPOA MOU.
3. Supervisors must keep accurate, detailed records for the reasons for denial of CTO. Few valid reasons exist to deny an employee's use of requested CTO.

C. **Dual Employment**

1. An employee is prohibited from dual employment without appropriate authorization. (See Administrative General Policy No. 15. Outside Employment Policy)
2. In dual employment capacities with two (2) or more classifications, but performing similar functions (e.g. security function), employees are allowed to work in two (2) or more classifications in the same work period so long as the hours in all jobs worked are less than 40-hours in a work period. Even if the work is in different departments, the work will not be considered work in a "different capacity".
3. Dual employment which results in an employee working more than 40 hours in a work period in two (2) classifications must be calculated using a weighted average method for the computation of overtime.

D. **Independent Contractors**

1. Prior to employment of an independent contractor, the department must complete an Independent Contractor Questionnaire. The Questionnaire must be submitted to the Finance Department. Once the Finance Department has approved the independent contractor status, the department will be notified and may proceed with the hire.

E. **Limiting Off-Duty Work**

1. Off-duty work must be pre-approved by the supervisor. Payment for off-duty work (i.e., volunteering to perform, review and respond to work-related e-mails, etc.) must be compensated and requires pre-approval.
2. The disciplinary process will be utilized for employees who work off-duty without prior approval. This enables the City to refuse to pay employees who work at home or off-duty without authorization. Unofficial (unauthorized) timekeeping is prohibited.
3. Work performed in excess of the regular shift must receive prior approval from the supervisor and must be paid and/or recorded as Compensatory Time Off. Flex time is not allowed; however, temporary alternate work week schedule operations may occur in accordance with the appropriate M.O.U.

F. **Meal Time**

1. Unless provided for by the Memorandum of Understanding, employees cannot eat lunch at their desk while performing work without written authorization from the supervisor.

G. **Overtime Rate**

1. Overtime must be calculated using the “regular rate” of pay for all hours actually worked over 40 in each of the two work periods of a pay period.
2. The overtime rate for employees working multiple positions is calculated by using a weighted average of the rates at which the employee worked.

H. **Pre and Post Shift Activities**

1. All City employees must limit work activities to City work while they are on shift. This includes but is not limited to: reviewing and responding to e-mail; picking up or dropping off City vehicles; pre-briefing activity of gathering logs or subpoenas, etc.
2. The Police Department must compensate employees for the pre-briefing activity of gathering logs and subpoenas or consider an alternative which will not result in additional time worked. For example, having the work shift end a few minutes earlier, etc.

I. **Record Keeping**

1. Supervisors will be held responsible for failing to report or inquire about hours worked by the employee when the supervisor had reason to know that the employee was not recording all hours actually worked on his/her timesheet.
2. The Finance Department must keep records of the time of day, and day of the week, on which each employee’s work period begins.
3. Effective July 1, 2002, the Finance Department must maintain records of all City employees’ hours worked each day and total hours worked each work period.

J. **Time Sheet Reporting**

1. Employees must report their actual time worked on an official City time sheet.
2. Time off should be converted using the attached Conversion Chart for Payroll Time Entry.
3. Employees working the 9/80 work schedule cannot move their regular day off.

K. **Training Time**

1. As much as possible, training time should be scheduled during normal work hours to avoid overtime.
2. Time spent on homework related to City training is compensable and must be authorized. Employees are required to record that time on their time sheet.
3. Training time is not compensable if the employee is required to attend the training in order to obtain a legally-mandated certification for his/her position.
4. Supervisors who use the performance evaluation to recommend training for purposes of job performance enhancement must clarify that such suggestions are “recommendations”, not requirements of present or future working conditions and continuance in employment will not be adversely affected by the employee’s failure to attend such training.
5. When posting notices of training classes for the purpose of informing employees who wish to attend such training on their own initiative, without compensation, the notices must state that “attendance is voluntary and will not be compensated, and that the notice is being posted for informational purposes only”.

L. **Travel Time**

1. Accurate records for all hours traveling to, and participating in, training classes must be

kept. Employees are obligated to keep track of this time and record it on their time sheet. Employees must subtract from the travel time, the time it takes for their normal home to work commute.

2. Employees who travel on City business must be compensated appropriately. As drivers, compensation should be for all time traveled. As passengers, compensation should be for hours that cut across their work day (including the same hours of the day on days off).

M. **Volunteers**

1. Volunteers shall complete a time sheet listing the volunteer hours worked.
2. The City prohibits the use of City employees as volunteers unless they are acting in a different capacity. Employees cannot volunteer for positions that perform similar duties for the City.

N. **Action**

This Policy is effective this date.