



CITY OF NEWPORT NEWS PERSONNEL ADMINISTRATIVE MANUAL

Effective Date: 11/01/06

SECTION 610	SUBJECT PAY COMPUTATION AND OVERTIME POLICIES AND PROCEDURES
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The following policies and procedures are established to govern the administration and computation of pay and overtime.

These policies follow or exceed the provisions of applicable federal and state law, including the Fair Labor Standards Act (FLSA). In case of conflict between City policy and federal or state law, the provisions of law will supersede City policy (unless City policy is more generous). Exceptions to the 40 hour work week for certain public safety positions and for other deviating schedules approved by the City Manager are documented as attachments to Section 610, Deviating Work Schedules and Overtime Policies.

I. DEFINITIONS

The following are definitions of terms used in this policy:

- A. Work Day - the 24 hour period beginning with the employee's scheduled daily reporting time. In situations where the employee's daily reporting time varies during the week, the work day will be the 24-hour period beginning with the employee's scheduled reporting time for the first work day of the work week, regardless of the reporting time on subsequent days.
- B. Work week - the seven day payroll accounting period beginning with the employee's scheduled reporting time on Wednesdays for Hourly employees, and on Mondays for other employees. The City Manager may establish deviating work weeks for individual operations.
- C. Other Established Work Period - refers to those work periods of other than seven days that may be established by the City Manager in accordance with the Fair Labor Standards Act.
- D. Time Worked - generally includes all approved work time that the employee is required to be on duty or required to be on the City's premises or at a prescribed work place for the City, and all time during which the employee is suffered or permitted to work for the City.

Generally, time worked includes the following:

- 1. Regular work duty during which the employee is required to be at the work place and available or waiting for work.
- 2. Short breaks of 20 minutes or less.
- 3. Meal periods of less than 30 minutes, or meal periods during which the employee is not completely relieved from duty.

AMENDS/SUPERSEDES SECTIONS 608-1-4 & 610-1-4, 08/01/93	REFERENCES FAIR LABOR STANDARDS ACT	APPROVAL
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4. Actual work time when the employee is called back to work outside of the employee's scheduled work hours. (City policy compensates employees for a minimum of two hours when they are called back to work after the completion of the scheduled work day or work week. See Section 615, Call Back Pay.)
5. Time an employee spends performing City work related to his/her job outside of scheduled work hours, even if done voluntarily, is considered work time if the employer knows or has reason to believe the employee is working and the work is the same or similar type of work the employee is regularly employed to perform, even if it is in a different department or division. Even if the employee has requested to work and has indicated that he/she does not wish to be compensated, it is still considered time worked. This includes work an employee may perform on City premises before and after regular work hours and work performed at home or at another location, such as time an employee spends handling telephone calls, completing paperwork, performing computer work, caring for equipment, or doing other similar types of work. (must be more than 7 minutes). (Note: Work performed outside of scheduled work hours must be authorized in advance, except in certain emergency situations. See Section 1001, Standards of Conduct.)
6. Training Time - Time spent in job-related training, if it is specifically required or directed by the City, or if the employee is led to believe it is required for continued employment, or if it is designed to make the employee handle his/her job more effectively.

There are some exceptions where job-related training may not be considered work time such as training for some state required certifications; voluntary attendance at a college or trade school after hours; and attendance at lectures, meetings and training programs if such is 1) outside the employee's regular work hours, 2) is voluntary, 3) is not directly related to the employee's job, and 4) the employee does not perform any productive work during such attendance. Also, time an employee voluntarily spends in training to learn new or additional skills or to prepare for other jobs is not generally considered time worked.

Time studying is sometimes considered time worked. Homework time may be compensable in certain situations, particularly when homework is a required part of a mandatory training program. Contact the Department of Human Resources regarding specific situations.

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7. Travel Time

- a. Commuting Time - Commuting time to or from work is not usually considered as time worked, regardless of whether the employee reports to a fixed location or to a different site. Exceptions to this policy may apply in situations where the employee is actually performing required work while commuting, such as in emergency situations where the employee is using a cell phone or radio to arrange for appropriate response and resources (must be more than 7 minutes). When an employee is required to report at a meeting place to receive instructions or to perform other work there, or to pick up and carry tools or equipment, the travel from the designated meeting place to the work place is time worked. (Contact the Department of Human Resources regarding specific situations.)
- b. From Job Site to Job Site - Time spent traveling by the employee on City business from one job site to another during the course of the work day is considered time worked.
- c. Out of Town Travel
 1. One Day Trips - When an employee goes out of town on City business and returns within the same day, all time spent in travel within that day is considered as time worked. In situations where the employee's trip begins and ends at the employee's home, the amount of time the employee typically spends commuting to and from work may be deducted from the travel time.
 2. Overnight Trips - Travel that occurs during the employee's normally scheduled working hours, regardless of whether it occurs on a regular work day is considered as time worked when an overnight stay is involved. Time spent traveling outside of the employee's normally scheduled working hours is not considered as time worked when the employee is a passenger and is not performing work. If the employee is performing work during the travel time, such as completing paperwork, preparing for a presentation, or driving a City vehicle, the time is considered as time worked. In situations where the employee's trip begins and ends at the employee's home, the amount of time the employee typically spends commuting to and from work may be deducted from the travel time.

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8. Second Job with the City - In the event an employee is employed in a second job with the City, time worked in the second job is considered as time worked. (Depending on the circumstances, the time may or may not be credited towards the work week for determining overtime. Contact the Department of Human Resources for guidance in how pay/overtime should be determined.)

E. Time Not Worked - includes the following:

1. Most paid time off, when the employee is not at work, such as paid personal leave (PPL), paid medical leave (PML), preventive medical care (PMC), funeral leave, military leave, jury duty leave, holidays, and compensatory time off is not considered as actual time worked. However, most paid time off counts toward the computation of overtime, see section III. D., below, "Time Credited Towards the Computation of Overtime".
2. Any unpaid leave time.
3. Breaks of more than 20 minutes.
4. Meal periods of 30 minutes or more during which the employee is relieved from duty.
5. Time on standby is not generally considered as time worked. However, if the employee is called back to work or is otherwise working, such as handling telephone calls (must be more than 7 minutes) then the time is considered as time worked. See Section 613, Standby Authorization and Pay. Also, see Section 615, Call Back Pay, for the treatment of time when an employee is called back to work.
6. Time worked in increments of seven minutes or less. See paragraph II, A, below.
7. Some cases in which the employee volunteers time for activities unrelated to the regular work assignment. Contact the Department of Human Resources for determination in the individual circumstance.

Definitions of "Time Worked" and "Time Not Worked", paragraphs I., D and I.,E, above, are stated in general terms. Contact the Department of Human Resources for determination of specific circumstances or clarification.

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II. COMPUTATION OF TIME AND PAY

- A. The City computes time in 15 minute increments. Any time worked in increments of seven minutes or less is not considered compensable time worked and is not included in the computation of time worked for the week. Any time worked in increments of more than seven minutes is rounded up to 15 minutes for compensation purposes. Leave is also computed in 15 minute increments. Leave time of seven minutes or less is not charged. Leave time of more than seven minutes is rounded up to 15 minutes.

B. Computation of the Base Hourly Rate of Pay

For employees in jobs classified in the Hourly Salary Schedule and the Part-Time and Temporary Rate Schedule, the stated hourly rate is considered the employee's base hourly rate.

For employees with work schedules that equate to 40 hours per week and whose salaries are stated in annual equivalents, the base hourly rate is computed by dividing the annual salary by 2,080 hours. For sworn Fire Department employees assigned to 24-hour shifts, the base hourly rate is computed by dividing the annual salary by 2,920 hours.

C. Computation of the Overtime Rate of Pay

The following are included in determining an employee's hourly rate of pay for overtime purposes:

1. Base hourly rate, plus,
2. Hourly rate of Standby compensation, if any (See Section 613, Standby Authorization and Pay), plus,
3. Hourly rate of Salary Supplements, if any (See Section 612, Supplemental Pay Policies and Procedures), plus,
4. Hourly rate of Educational Incentive Payments, if any (See Section 617, Educational Incentive Pay).

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D. Docking of Pay

Compensation and leave policies for the City of Newport News are established pursuant to the principles of public accountability. Therefore, employees who take leave after exhausting all applicable, accumulated leave balances will have pay docked for the period of the absence. (For docking of exempt employees, see section IV., B., below, "Docking of Pay for Overtime Exempt Employees".)

III. OVERTIME POLICIES

Employees may be assigned and required to work more than their regular weekly or other established work schedule within the following guidelines. When overtime, as defined below, is worked, overtime eligible (non-exempt) employees are compensated in accordance with the following policies.

A. Overtime Administration

Department heads and all levels of management are responsible for monitoring overtime, for ensuring that overtime is worked only when necessary, for ensuring appropriate assignment of overtime, and for ensuring that overtime worked by non-exempt employees is recorded and compensated in accordance with City policy.

1. Authorization - Overtime for eligible employees must be authorized and approved in advance by the department head or his/her designated representative. The only exception to prior approval of overtime is that necessitated by emergencies that may jeopardize the health, safety, and welfare of the public or City employees.
2. Notification and Assignment of Overtime - Overtime on a particular job will normally be assigned to the employee who has been working on that job during the regular day or week. Departmental management will establish procedures regarding assignment of overtime to include the fair distribution of overtime assignments.

Whenever possible, management will make reasonable efforts to provide employees with as much advance notice of any overtime as practicable, although no notice is required. Employees are expected to work overtime when directed to so do, even if advance notice is not given, unless the employee has an excuse reasonable to the appropriate manager. In the event an employee is unable to work assigned overtime, the employee shall notify the appropriate manager immediately. Depending on the circumstances, the manager may relieve the employee from working overtime or may require that the employee work the overtime. Failure to work required overtime may result in disciplinary action. (See Section 1000, Standards of Conduct.)

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3. Use of Overtime - Overtime is to be used only when required by the department. Overtime eligible employees shall not be allowed to work overtime, even when such time is worked at the employees' request, with the stipulation of no pay for the work. These situations are still overtime and require overtime compensation.

B. Eligibility for Paid Overtime

The City's Classification and Pay Plan listing by job title indicates the overtime eligibility status of each City job.

The overtime eligibility status of each job is determined by the Department of Human Resources during the job review process. The City follows the Federal Fair Labor Standards Act (FLSA) for determining which jobs must be compensated for overtime. Jobs that meet the FLSA's exempt standards are normally considered ineligible for paid overtime. Jobs that are ineligible for paid overtime are considered to be "exempt" and have an overtime code of "E" in the Classification and Pay Plan. Exempt jobs are not compensated for overtime either in the form of pay or compensatory time off. Jobs that do not meet FLSA requirements for exemption are considered to be "non-exempt" and must be compensated for overtime worked. Non-exempt positions have an overtime code of "N" in the Classification and Pay Plan.

C. Definition of Overtime

1. Overtime is defined as all credited work time in excess of 40 hours in a work week for overtime eligible employees, except as stated below. Overtime is not computed on a daily basis.
2. Exceptions to the 40-hour per week threshold for overtime may be made only in certain public safety situations as defined in the Fair Labor Standards Act. Any City work schedules with base hours that exceed 40 hours per week must be specifically approved by the City Manager, upon recommendation of the Director of Human Resources, and are documented as attachments to Section 610, Deviating Work Schedules and Overtime Policies. Where exceptions have been authorized, any references in these policies to a 40-hour work week shall be construed to mean the number of hours approved for the work cycle.

D. Time Credited Towards the Computation of Overtime

The following provisions govern time that is credited towards the computation of total hours worked for the work week or work period for the purpose of determining what, if any, overtime has been worked.

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1. All time actually worked is credited towards the computation of time worked for the work week. (Time worked is defined in section I., D., above, "Time Worked". Contact the Department of Human Resources for determination of specific circumstances or clarification.)
2. Except as stated below, all approved paid time off is credited towards the computation of time worked for the work week or work period. This includes paid personal leave, paid medical leave, preventive medical care, compensatory time off, holidays, funeral leave, jury duty, civil leave, and emergency status leave. (Unexcused absences and unpaid time off are not credited toward the computation of total hours worked for the work week.)

However, in situations where the employee is notified during the work week that additional time is to be worked, and, after being notified, the employee requests and is approved to take time off during the same work week, only that amount of leave time needed to bring the employee's credited time for the week up to 40 hours shall be charged. See E., 6., d, below, for an example of how to apply this exception.

E. The Effect of Work Schedule Changes on Compensation and Leave

See Section 609, City Work Schedules and Schedule Changes, for policies and procedures governing establishing and changing employee work schedules.

1. Management has the authority to change working hours, work days, starting and stopping times, shift assignments, or any other aspect of the employee's schedule, at any time.
2. While the City strives to provide as much notice of a work schedule change as possible, no notice is required and changes to an employee's work schedule do not incur any additional compensation unless credited time for the work week exceeds 40 hours. The new schedule is basis for computing compensation and for taking and charging leave.
3. However, when an employee is required to work additional time that would result in overtime for the week, and the employee was not notified of the additional work time prior to the beginning of the work week, management cannot change the employee's schedule or require that the employee take time off during the week that would cause the amount of overtime incurred to be minimized or eliminated. This provision does not apply to changes in the time of meal periods or other breaks. Meal periods and other breaks may be changed at any time within the same work day without any impact on leave, credited time, or compensation.

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The policy provisions of this paragraph do not apply to work schedules for temporary employees, regular part-time employees, regular full-time employees who work a flexible work schedule, nor to regular full-time employees who have requested a work schedule change for the week. In these cases, the employee's schedule can be changed or adjusted without advance notice and the new schedule is the basis for computing compensation and for taking and charging leave.

4. Any pre-approved leave or pre-approved compensatory time off will be adjusted to coincide with the work hours of the adjusted work schedule unless the employee chooses to change the leave time being charged, and such is approved by designated management.
5. Management may not change an employee's work schedule in weeks in which leave or compensatory time off has been pre-approved solely to avoid or minimize the employee's leave or time off. Such schedule changes may be supported only in emergency situations or in cases of extreme staffing shortages or similar situations.
6. When an employee has been notified that additional time is to be worked and later requests/is approved to take PPL, PML, PMC or compensatory time off during the same week, the employee may charge only that amount of leave or compensatory time needed to bring the employee's credited time for the week up to 40 hours. (Different hours may apply to other approved schedules that deviate from the standard 40 hour work week.) If the employee already has 40 or more credited hours for the week, no leave time or compensatory time will be charged or compensated.
7. **EXAMPLES:** The following are examples of how the provisions of Section III. D., of this policy should be applied to overtime eligible employees. (Examples assume the employee works a Monday through Sunday work week, 8 hours per day.)
 - a. Employee A is on paid personal leave Monday through Friday (40 hours). On Saturday, the employee is called in to work 8 hours due to an emergency. The employee is credited with 48 hours for the week (40 hours at straight time; 8 hours at time and one-half).
 - b. Employee B is on paid personal leave during his scheduled work day on Wednesday (8 hours). That night, Employee B is called in to work 4 hours due to an emergency. Employee B is credited with 12 hours for the day.

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Since the additional work time on Wednesday was an emergency and was not scheduled prior to the beginning of the work week, Employee B's supervisor may not mandate that he take time off during the remainder of the work week to offset or minimize the overtime. If Employee B works the remaining hours of his schedule for the week, he will be credited with a total of 44 hours (40 hours at straight time; 4 hours at time and one-half). If employee B requests 4 hours off on Friday after working the additional time on Wednesday, he will not be charged with the leave time and his credited time for the week will be 40 hours.

- c. Employee C has a doctor's appointment and takes two hours off at the beginning of his shift. Employee C then works the remaining 6 hours of his regular shift. Afterwards, he is requested to stay and work an additional two hours. Employee C is credited with 10 hours for the day. If he works the remaining hours of his schedule for the week, he will be credited with a total of 42 hours (40 hours at straight time; 2 hours at time and one-half).
- d. Employee D is told on Tuesday morning that he will have to work an additional 4 hours that night. On Wednesday of that same week, he requests to take Friday off. Since the time off on Friday was not requested until after he had been notified of the additional work time on Tuesday, he may only charge 4 hours of PPL, which is the amount of leave time needed to bring his hours for the week up to 40. If the leave for Friday had been approved prior to Tuesday morning, when he was notified of the additional work time, then Employee D would have been able to charge 8 hours PPL on Friday and would have been credited with 44 hours for the week (40 hours at straight time; 4 hours at time and one-half).
- e. Employee E normally works from 8 a.m. to 5 p.m., Monday through Friday. After working his regular 8-hour shift on Monday, Employee E was informed that his work hours would change to 7 a.m. to 4 p.m. for the remainder of the work week. Assuming Employee E works all assigned work hours for the week, he will be credited with 40 hours for the week (all at straight time).
- f. Employee F works his regular 8-hour shift on Monday. Later that night, he is called back in for an emergency and works 10 more hours. His supervisors tells Employee F not to report to work the next day. Employee F will receive credit for working 18 hours on Monday and will also receive credit for his 8-hour shift on Tuesday that he was excused from working. Employee F is given credit for working on Tuesday, even though he was excused, because he was not notified of the additional work time prior to the beginning of the work week, and therefore, management cannot require that he take time off during the remaining portion of work week that would cause the amount of overtime incurred to be minimized.

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E. Overtime Compensation

Overtime may be compensated in the form of pay or compensatory time off or a combination of pay and compensatory time off. Compensation is at the rate of time and one-half. See Section II, D., above, "Computation of the Overtime Rate of Pay".

F. Compensatory Time

Instead of pay for overtime worked, the City may grant compensatory time off to employees who are eligible for overtime. Compensatory time off is granted at the rate of one and one-half times the amount of overtime worked.

By federal law, compensatory time may be accumulated up to 240 hours (480 hours for law enforcement, fire/emergency response, and certain seasonal operations). Except in cases of unusual operating requirements, City policy allows a maximum accumulation of 120 hours compensatory time with the provision that it must be taken within 60 days of the time it is earned. In cases where an operational hardship would be posed, the City's maximum accumulation and time limitation may be waived by the department head. However, the maximum accumulated compensatory time shall not exceed the federal law requirements of 240 (480) hours stated above.

An employee may request the use of accumulated compensatory time off at any time. The City is required to honor the request and allow the employee to take time off within a reasonable time of the request, unless operations would be unduly disrupted by the employee's absence. Under federal regulations, mere inconvenience to the operation or having to pay overtime to a replacement employee in order to allow an employee to take compensatory time are not sufficient reasons for denying the use of compensatory time.

The City may require an employee to take accumulated compensatory time off before taking accrued paid personal leave, provided this would not cause the employee to forfeit paid personal leave carry over.

When an employee terminates employment for whatever reason, all accumulated compensatory time will be paid at the employee's regular rate of pay at the time of termination, or the average regular pay rate of the employee during the last three years of employment, whichever is greater.

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IV. PROVISIONS FOR OVERTIME EXEMPT EMPLOYEES

A. Discretionary Leave

Employees in exempt positions are not eligible for overtime pay or compensatory time off. However, while not a requirement, department heads or their designated representatives may grant paid time off to exempt employees without charging such time to the employees' accrued paid personal leave (PPL) or paid medical leave (PML), when the employee has been working additional time. In such cases, time off is not granted on a one-for-one basis. Discretionary leave time is not charged and is not accrued. It is normally granted for periods of a half day or less. Such time off does not have to be recorded but may be noted for administrative purposes.

Department management may, at their discretion, also adjust the work schedules of exempt employees from time to time on a trade off basis where the employee has or will work other than his/her regular schedule.

- B. Docking of Pay for Overtime Exempt Employees - It is the City's policy to comply with the salary basis requirements of the Fair Labor Standards Act (FLSA) for overtime exempt employees. Therefore, the pay of exempt employees may only be docked in certain circumstances permitted by the Act. These include deductions permitted in accordance with City policies for various types of unpaid leave, for full, unpaid suspension days resulting from violations of the Standards of Conduct for serious workplace misconduct, for the initial or terminating week of employment, and for any other reason as permitted by the FLSA. In case of conflict between City policy and FLSA provisions, the provisions of FLSA will supersede City policy unless City policies are more generous than FLSA. Contact the Department of Human Resources regarding questions or situations not covered by this policy. (Also see Section 606, Attachment I, General Payroll Policies and Procedures - Overtime Exempt Employees.)

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