

MANAGEMENT COUNTER PROPOSAL

Bargaining Unit: 10

Date: May 11, 2022 @ 12:40 PM

Exclusive Representative: CAPS

Article: 7

Subject: Hours of Work and Overtime

7.7 Work Week Group Definitions and Compensation

A. Work Week Group 2

1. Work Week Group 2 applies to those classifications in State service subject to the provisions of the Fair Labor Standards Act (FLSA).
2. Overtime for employees' subject to the provisions of the FLSA is defined as all hours worked in excess of forty (40) hours in a period of 168 hours or seven consecutive 24-hour periods.
3. The State employer agrees to administer current rules and practices regarding work week groups and overtime. Only time actually worked shall be considered time worked towards premium overtime in a work week. This means that time spent by employees on paid leave, such as vacation, sick leave, holidays, compensating time off, etc., shall not be counted as time worked for purposes of determining eligibility for premium overtime.
4. Employees in Work Week Group 2 required to work in excess of forty (40) hours per week shall be compensated for such ordered overtime either by cash payment or compensating time off (CTO) in the following manner:
 - a. Cash compensation shall be at one and one-half (1½) times the hourly rate.
 - b. Compensating time off for Work Week Group 2 employees shall be given at one and one-half (1½) hours for each overtime hour worked.
5. Overtime may be compensated on a cash or CTO basis at the discretion of the department head or designee. Both parties agree and understand that a different type of overtime payment (cash or CTO) may be provided to employees at different times and may even be different for employees in the same or similar situations.

B. Work Week Group E

1. State employees who are exempt from the FLSA are salaried, not hourly, workers.

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2 To assure continued exemption from the FLSA, the following is the state's policy for all employees exempt from the FLSA

- a Management determines, consistent with the current memorandum of understanding, the products, services, and standards which must be met by FLSA exempt employees
- b The salary paid to FLSA exempt employees is full compensation for all hours worked
- c FLSA exempt employees are not authorized to receive any form of overtime compensation, whether formal or informal, with the exception of Subsection 7.7(B)(3) below.
- d FLSA exempt employees are expected to work the hours necessary to accomplish assignments and fulfill their responsibilities. The employee's workload will normally require 40 hours per week to accomplish. However, inherent in the job is the responsibility and expectation that work weeks of longer duration may be necessary for which there will be no additional compensation in any form.
- e. Management can require FLSA exempt employees to work specified hours.

However, consistent with operational needs, and the services which management has determined must be provided, the FLSA exempt employee, subject to notifying and obtaining management concurrence, has the flexibility to alter ~~his/her~~ their daily and weekly work schedules.

Employees are responsible for keeping management apprised of their schedules and whereabouts, must receive approval from management for the use of formal leave (e.g. vacation, sick leave, personal leave) and for absences of one day or more, and must respond to directions from management to complete work assignments by specific deadlines.

- f. Consistent with the salaried nature of FLSA exempt employees, these employees:
 1. Shall not be charged any paid leave for absences in less than whole day increments;
 2. Shall not be docked for absences of less than a day;

- 3 Shall not be suspended in increments of less than one complete work week (one week, two weeks, three weeks, etc.) when facing discipline, suspensions, demotions, or discharge.
 - 4 Shall not have absences of less than a day recorded for attendance record keeping or compensation purposes
3. CDFW and CDFA Unit 10 Veterinarians who have a Doctor in Veterinarian Medicine or the equivalent of a Doctor in Veterinarian Medicine and all CDFW Toxicologists who are assigned to an Incident Command Structure (ICS) response will have their Work Week Group (WWG) changed from WWG E to WWG 2 for the duration of the employee's assignment to the incident or while they occupy an ICS position.

In addition to the classifications referenced above, employees in the following classifications who are assigned to an ICS will also have their WWG changed from WWG E to WWG 2 during their assignment.

1. Research Scientist II (Epidemiology/Biostatistics)
 2. Research Scientist III (Epidemiology/Biostatistics)
 3. Research Scientist IV (Epidemiology/Biostatistics)
 4. Staff Chemist
- a. The calculation of hours of work for ICS assignments and/or positions will be based on complete work week increments and will not begin or end mid-week. A "work week" is defined as Sunday through Saturday.
 - b. Upon the switch to WWG 2, employees will be subject to all provisions outlined in Subsection 7.7(A), Work Week Group 2 above.
- C. Work Week Group SE
1. Work Week Group SE applies to those positions that under the FLSA are statutorily exempted (physicians, attorneys, teachers) from coverage.

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