

MEMORANDUMSTATE OF ALASKA
Department of Administration

To: All Commissioners
All Departments

Date: January 11, 1991

From: Millett Keller *M. Keller*
Commissioner
Department of Administration

Phone: 465-2200

Subject: Overtime

Departments are not authorized to pay any overtime to employees who are ineligible for overtime under the Fair Labor Standards Act. Exceptions to this prohibition can be made only with the approval of the Commissioner of Administration. All such requests will be reviewed pursuant to section 7480 of the Administrative Manual (attached).

Departments that do petition for an authority to pay overtime to overtime-exempt employees must provide clear and convincing evidence of the need. The following interpretive standards will be applied:

1. Overtime-exempt employees are expected to work overtime hours as a part of their normal duties. Overtime payment will be approved for overtime-exempt employees if it can be shown that the employee will be expected to work unusually long hours for an extended period, under conditions which cause significant inconvenience or undue hardship to the employee.
2. Although a definitive standard cannot be universally applied, hours will normally not be considered to be "unusually long" unless they exceed fifty per week.
3. An "extended period of time" will normally be interpreted to mean a season, or approximately a three-month period.
4. "Significant inconvenience or undue hardship" require a showing that the work requires the employee to be away from home under conditions that are not foreseeable or within management control. Examples of such conditions include emergency response efforts or fighting fires.
5. If the payment of overtime is approved after applying the above criteria, it will normally be approved at a straight-time rate for each hour worked between 50 and 72 per week.

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For example, an employee who works 80 hours in a week and who is approved for overtime payment will be paid for 22 hours of overtime at a straight-time rate. A similarly situated employee who works for only 72 hours a week will also be paid for 22 hours at a straight-time rate.

This standard is adopted recognizing that many exempt employees work in excess of 37.5 hours per week without additional compensation. It also recognizes that productivity declines and threats to worker safety increase if employees work too many hours. The 72-hour cap on compensable overtime is included to encourage managers to plan their operation in a manner that reduces the need to work excessive hours.

6. In rare circumstances overtime may be approved at time and one-half for all hours worked beyond the normal workweek. Such approval will be granted only in cases where the employing agency can show that the failure to pay overtime will result in serious recruitment or retention difficulties or significant inequities in the State's pay plan.
7. Approvals under the Administrative Manual will be granted only for the period of time that the overtime work is expected to continue.
8. Regular base pay for a work week will be calculated on the basis of the employee's official pay scale and duty station.
9. No overtime-exempt employee whose salary range is 23 or above will receive overtime compensation.

All employees who are exempt from the Fair Labor Standards Act are expected to work long hours periodically. When the overtime is unavoidable and becomes an excessive hardship on the employee, as established by these guidelines, I will approve payment of the overtime worked.

MK/DKFO/mlf

PAYROLL

(7478(1) - 7480
Rev. July 1985

Based on documents submitted by the agencies (PA's and LWOP cards), most fractional month pay computations are made automatically by the computer.

7480 - Overtime

Exhibit 7480 is a statement of policy and regulations for the payment of overtime.

The second position in field fourteen on the personnel action is an overtime indicator. If the indicator is Y or S, overtime may be paid to the employee. If the indicator is N, overtime may not be paid.

Overtime indicator Y is used for employees who would be covered by the provisions of the Fair Labor Standards Act (FLSA) or for noncovered employees who are authorized overtime compensation at the same rate. A covered employee is eligible for overtime compensation at the same rate. A covered employee is eligible for overtime compensation at the rate of one and one-half times his normal rate of pay.

If the employee meets the requirements for an executive, administration or professional exemption, his overtime indicator may be either N or S.

An N means that compensation for time worked in excess of 37.5 or 40.0 hours for supervisors a week, is prohibited. The regular rate of pay is full compensation for all time required of the employee to perform his assigned duties.

An S means that the Commissioner of Administration has authorized overtime compensation at the regular hourly (straight time) rate of pay as the result of a request from an agency for special consideration. A copy of the memorandum from the Commissioner of Administration authorizing straight time compensation for overtime must be attached to a personnel action that establishes S as the overtime indicator for an employee. The indicator "S" is also used for all Alaska Public Service Employees in which case overtime compensation is not limited to the employee's regular hourly rate. The appropriate overtime rate for A.P.S.E. employees are entered individually on each timesheet. See Section 7364.

The overtime indicator for an employee in the exempt service (any payroll type other than M and H) is controlled by the appointing authority of the employing agency. The overtime indicator for an employee in the classified or partially exempt service (payroll types M and H, with the exception of Alaska Court System) is subject to policy of the Commissioner of Administration and the personnel rules.