



Town of West Newbury

Select Board

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Public Hearing Notice

Amendment to the Personnel Policy

Monday, November 15, 2021 @ 8pm

On October 18, 2021, the Select Board proposed amendments to the Personnel Policy. Under the Personnel Bylaw, any proposed new, amended or revised policies shall be posted for a period of at least ten days after being proposed by the Select Board, during which time comments, information and questions regarding any proposed policy may be provided to the Select Board. A public hearing shall be held following the ten-day posting period.

A public hearing will be held by the Select Board on the following proposed revisions to the Personnel Policy.

The Board proposes to create a new Section X¹: Compensatory/Overtime/Time Worked Above Budgeted Hours Policy, as follows: *(Note: strikethrough and underlining are not used because the entire section as proposed would be new)*:

COMPENSATORY/OVERTIME/TIME WORKED ABOVE BUDGETED HOURS POLICY

Exempt Employees

Employees holding exempt positions are never entitled to overtime pay. Generally, employees holding exempt positions are not entitled or allowed to use or accrue compensatory time. Rather, it is expected and understood that professional positions often require more than 9 hours in one day or 40 hours in one week.

The sole exception to this prohibition is that in unusual circumstances, when pre-approved by the Town Manager in writing an exempt employee may request the accrual of a limited amount of earned time. In this situation, earned time shall be accrued on an hour for hour basis.

Use of earned time by exempt employees is strictly subject to the written approval of the Town Manager. Exempt employees are never, no matter the circumstances, entitled to payment for any

¹ Note: Section number to be added at or following public hearing.

accrued and unused earned time. Any earned time earned must be used within 60 days of accrual.

The reason it is rare that earned time accrual will be approved is that it is expected and understood that professionals will dedicate the number of hours necessary to succeed at their position. As professionals, it is expected that there will be no earned time requests for things like attending night meetings or working late during busy times. As professionals however, and in the interest of preventing employee burnout, where the hours of work required exceed the "normal" work week due to night/weekend meetings, special projects, DPW winter operations, etc., and said hours are documented, you would be eligible to receive earned time off at the discretion of the Town Manager.

Overtime, Overtime Pay and Compensatory Time

Non-Exempt Employees Only

This portion of the policy solely applies to non-exempt (hourly) employees.

Overtime is the term given to hours worked beyond 40 hours in one work week. Overtime hours are compensated either monetarily (pay) or in compensatory time off, both at the one-and-one-half time rate for each hour over 40.

1. Overtime.

The granting of overtime is contingent upon an existing need, usually temporary, such as additional workload, special projects or events, or to cover the absence of another employee. Working additional hours for the purpose of receiving additional pay or accruing extra compensatory time off for future use is prohibited and creates an unnecessary fiscal obligation for departments.

Overtime is reached once an employee has actually worked beyond the 40-hour maximum allowable hours in a given workweek. Compensation for overtime hours must be paid at the one-and-one-half time rate to non-exempt employees for any hours worked in excess of 40 hours in any given week. The Town Manager is responsible for oversight of overtime for non-union employees, consistent with appropriated funds. Overtime must be authorized in advance by the Town Manager.

2. Overtime Hours.

In determining whether an employee has worked any overtime, only those hours actually worked will be considered. This is not the same as "in-pay status" which includes all paid leave hours, no matter the type.

An instance of "in-pay status" as opposed to overtime status is the scenario where the number of hours worked is less than or equal to 40, but when added to leave time taken becomes greater than 40. In this case, the extra hours are termed "additional" and are to be paid at the regular annualized rate of pay. To avoid placing an employee into an overtime situation, an employer can plan in advance to change the employee's work schedule.

3. Overtime Pay.

Payment for overtime worked will be at one and one-half times the employee's regular rate of pay.

4. Compensatory Time.

Compensatory time is an alternative method of overtime compensation for hours worked over 40 for non-exempt employees. As such, it must be approved in advance as overtime. The same overtime principles apply: Working extra hours in order to accrue compensatory time off for future use is prohibited.

In lieu of paying a non-exempt employee for overtime worked, employees may be granted compensatory time off at the rate of one and one-half hours off for each hour of overtime worked, at some time after the workweek in which the overtime was worked if the following conditions are met:

- a. The employer reaches an agreement with the employee to accept compensatory time off in lieu of overtime pay prior to the performance of the overtime worked. The same agreement does not have to be reached with each employee.
- b. The employee knowingly and voluntarily agrees to accept compensatory time.

Employees who have requested the use of compensatory time will be permitted to use such time within a reasonable period after making the request if use of the time does not unduly disrupt the operations of the department. Mere inconvenience to a department is insufficient reason to deny an employee's request to use compensatory time. Likewise, each employee who has accrued compensatory time off may be required to use the compensatory time within a reasonable period after receiving notice to do so. The notice will include the length of time in which a specified number of hours of compensatory time are to be used.

Time Worked Above Budgeted Hours

Non-Exempt Employees Only

If the work demands of a non-exempt position exceed budgeted hours within a given pay period, the affected employee may request advance Town Manager approval to work more hours than are budgeted.

The approval to work hours above budgeted is contingent upon an existing need, usually temporary, such as additional workload, special projects or events, or to cover the absence of another employee. Working additional hours for the purpose of receiving additional pay is prohibited and creates an unnecessary fiscal obligation for departments.

Within the Town Manager's consideration of the request, discussion will take place with the affected employee, including (if/as appropriate) the primary Board or Commission to which the employee provides direct support. Discussion will consider what factors are driving the workload above budgeted hours, and whether the best answer is to increase hours (with the employee's specific agreement), or to somehow reduce workload.

Avoiding a situation where the employee's actual pay exceeds what is budgeted could include reducing hours worked in future weeks, to offset any overage; or increasing the budgeted expense

line (whether by budget amendment or by approved Reserve Fund or Line-Item transfer) to cover the actual hours/cost, if necessary. In either case, advance approval by the Town Manager is required for hours worked above the budgeted hours.

Comments, information and questions from all interested parties may be sent to the Board in advance (selectboard@wnewbury.org), or may be provided at the hearing. All interested parties are encouraged to attend.