

February 21, 2019

**Side Letter of Understanding
Between Tulare County
and the
TULARE COUNTY PROFESSIONAL FIREFIGHTERS ASSOCIATION**

This side letter is to confirm that the County of Tulare and the Tulare County Professional Firefighters Association (TCPFA) for Unit 23 met and conferred and reached agreement on various overtime and payroll related issues.

1. **Bilingual Pay:** Change current calculation of \$0.50 per hour using standard or scheduled hours to \$0.50 per hour using hours actually worked.
2. **Sick Leave Buy Back (SLBB):** Change current excluding SLBB in regular rate of pay calculation for overtime premium to including SLBB in the regular rate of pay calculation for overtime premium.
3. **Overtime Premium:** Change current calculation of the regular rate of pay for overtime premium using hours actually worked in the work period to calculation of the regular rate of pay for overtime premium using standard or scheduled hours in the work period.
4. **Straight Time Overtime (STO):** Change current STO paid at the base rate plus the equivalent of additional pay codes paid per hour based on hours actually worked in the work period to pay STO as regular hours at the base rate. Pursuant to this change, the term STO is eliminated.
5. **Holiday in Lieu (HIL):** Change excluding HIL in the regular rate of pay calculation for overtime premium to including HIL in the regular rate of pay calculation for overtime premium.

DEFINITIONS:

Periods:

Pay Period – Every 14 days.

Work period – Refers to an established and regularly recurring period of work. Shift personnel shall have a 24-day work period. Non-shift personnel (Administrative Captains and Lieutenants) shall have a 7-day work period.

“Hours actually worked” - Includes hours classified as regular, overtime, or call back. It does not include non-working hours, such as holiday, sick, vacation, etc.

“Scheduled or Standard Hours” – Those hours that are recurring and fixed within the work period. Shift personnel are expected to work 182 hours over a 24-day work period. Non-shift personnel are expected to work 40 hours over a 7-day work period.

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Types of Overtime Pay:

Overtime Premium – The base rate plus one-half of the Regular Rate of Pay for each of the “hours actually worked” plus any vacation hours taken during the work period that exceed the overtime threshold for the applicable work period.

Compensation:

Base Rate – The rate paid to an employee per hour before additional pays and other types of pay are included.

Additional Pay – Additional means of compensation that an employee receives (e.g., bilingual pay, benefits tax, etc.) unless excluded by the FLSA.

Regular Rate of Pay – The rate used in the calculation for overtime premium. It is calculated by using the following formula:

$$\text{Base Rate} + \frac{\text{lump sum of additional pays per work period}}{\text{Standard or Scheduled hours}} = \text{Regular rate of pay}$$

$$(\text{Base Rate}) + (\text{Regular Rate of Pay} \times .5) = \text{Overtime premium rate}$$

Example: Employee works 40 Standard or Scheduled Hours and 5 hours of Overtime premium. Base Rate = \$10; Lump Sum Additional Pay Per Work Period = \$20

$$\$10 \text{ Base Rate} + \frac{\$20 \text{ lump sum additional pay per work period}}{40 \text{ Standard or scheduled hours}} = \$10.50 \text{ Regular rate of pay}$$

$$(\$10 \text{ Base Rate}) + (\$10.50 \text{ Regular Rate of Pay} \times .5) =$$

$$\$10 + \$5.25 = \$15.25 \text{ Overtime premium rate}$$

$$\$15.25 \text{ Overtime premium rate} \times 5 \text{ Overtime premium hours} = \$76.25$$

**Article 4
COMPENSATION**

4.2 OVERTIME

Overtime shall be paid in accord with Personnel Rule 4.3, or its successor, provided however:

Shift personnel shall be eligible for overtime when hours actually worked plus vacation hours exceed 182 hours in a 24-day work period, or other work period established by the County in accord with the 207k exemption set forth in the Federal regulations interpreting the Fair Labor Standards Act (FLSA) for non-exempt hourly employees. Overtime hours shall be compensated at the overtime premium rate, as illustrated above.

For purposes of clarity, premium overtime (FLSA Overtime) is one-half time for the actual

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hours worked between 182 hours and 192 hours in a 24-day work period, or other work period established by the County in accord with the 207k exemption set forth in the Federal regulations interpreting the FLSA.

Compensatory time (CTO) shall not be authorized for shift personnel. For non-shift personnel assigned to a 40-hour shift (Administrative Captains and Lieutenants), such employees may select either CTO or cash payment for overtime hours. Once an employee has reached eighty (80) hours of CTO, any additional overtime hours incurred shall be paid out in cash at the overtime premium rate, as illustrated above.

For absences greater than twelve (12) hours, overtime will be offered by rank. Ranks will include Captains, Lieutenants and Fire Apparatus Engineers. An electronic list will be maintained for each rank. Individuals will be ranked on each list by the amount of overtime hours accepted. The employee with the fewest accepted overtime hours will be at the top of the list and contacted first. New employees will be put on the overtime list starting with the average of all employees accepted overtime hours within their rank. Overtime shall be filled with like-rank when possible; Captain with Captain, Lieutenant with Lieutenant, and Fire Apparatus Engineer with Fire Apparatus Engineer. If unable to fill a Captain's position with the like rank, the order to fill each rank will be as follows:

- a) Captain- Lieutenant, then qualified Fire Apparatus Engineer.
- b) Lieutenant- Captain, then qualified Fire Apparatus Engineer.
- c) Fire Apparatus Engineer- Lieutenant, then Captain.

Extra Help Engineers may be used for work periods exceeding 12 hours and up to 48 consecutive hours when there are no Captains, Lieutenants, or Fire Apparatus Engineers available on the voluntary sign up list, or do not respond to the Department's notification efforts. This option will only be used when ordered overtime is required. If no Extra Help Engineers are available to work, the Department will resume ordered overtime of Captains, Lieutenants, and Fire Apparatus Engineers in 24-hour increments by like rank for the vacancy.

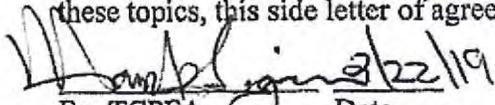
Backfill of hours worked due to absences, scheduled or unscheduled, shall first be filled by relief staff regardless of rank. Further, it is at the discretion of the department to utilize Extra-Help Fire Engineers to back fill the rank of Lieutenant, Captain, and Fire Apparatus Engineers prior to using the overtime list, for shortages of twelve (12) hours or less. If the circumstances cause the employee to work more than twelve (12) hours, no compensation will be due to the employee next up on the Overtime list.

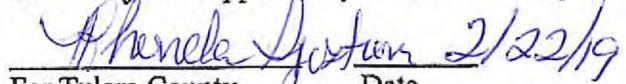
The Department will establish a Standard Operating Guideline for the scheduling of overtime. It is agreed parties will meet and confer on the application of procedures governing the allocation of overtime hours. If an employee is mandated to return to duty their name will not be placed at the bottom of the overtime list. In the case of emergency overtime, the Department's current Standard Operating Guidelines (607) stands.

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During the term of the MOU, the County and TCPFA agree to meet and confer and update the current Overtime SOG-607.

This side letter of agreement was reached through the meet and confer process with TCPFA on these topics, this side letter of agreement is subject to approval by the Board of Supervisors.


For TCPFA Date


For Tulare County Date

HANK SEGWIN

Rhonda Sjostrom