

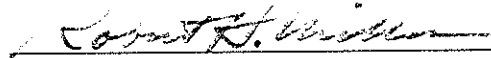
IN THE SUPREME COURT OF THE STATE OF KANSAS

Administrative Order No. 74

Re Amendments to the Rules Relating to the
Kansas Court Personnel System

Rules 4.17 c, 4.17 d, Appendix A and Appendix D of the
Rules Relating to the Kansas Court Personnel System are hereby
amended effective March 18, 1990, by the attached pages.

BY ORDER OF THE SUPREME COURT this 12th day of March 1990.



ROBERT H. MILLER
Chief Justice

Attachments

2. Employees who were on steps D, D3, D6, D9, D12, D15, and D18 with 12 or more months time-on-step as of June 18, 1989 will be converted and will be eligible to receive an increase to the next step on the FY 1990 pay plan. Subsequent step movement on the pay plan will be based upon new merit increase dates calculated from June 18, 1989.
3. Employees who were on steps D, D3, D6, D9, D12, D15, and D18 with less than 12 months time-on-step will be assigned to the corresponding step of the FY 1990 pay plan. Subsequent step movement on the pay plan will be based upon the completion of the 12 months or one year time-on-step requirement.

4.14 Individual Salary Decreases

Upon recommendation of the appointing authority and upon approval by the Personnel Officer and the Chief Justice, the salary of any employee may be reduced for "below standard" or "unacceptable" performance as indicated by performance evaluations or other pertinent data. The reduction shall be one step in the salary grade assigned for the class of position which the person is employed. However, such a decrease shall not result in a pay rate below step A of the salary grade. The salary decrease date shall become the date for calculating the next merit eligibility date.

4.15 Termination Compensation

A terminating employee, except those terminated during an initial probationary period, who gives at least five working days' notice of resignation will be paid for each day of annual leave accrued to the date of termination. Notice may be waived in writing by the Personnel Officer. Payment will be made at the salary level at the time of termination. (Reference 6.7 for 10-day notice for rehire privilege.)

4.16 Additional Compensation

No compensation in addition to the employee's regular salary shall be received from any source by any full-time employee for work performed during regular hours of employment.

4.17 Overtime Compensation

Overtime compensation is the rate of payment for working in excess of a forty-hour work week. The Fair Labor Standards Act as amended in 1985 requires governmental employers to compensate nonexempt employees at the rate of:

- a. A compensatory hour and one-half off for an overtime hour worked.
- b. A nonexempt employee may accumulate up to 240 compensatory time hours (20 days x 8 hours x 1.5 = 240).
- c. If an employee terminates employment with accumulated compensatory time, the employee shall be compensated at the time and a half rate for overtime worked in cash at a rate of compensation not less than either the average regular rate received by the employee during the last three years of the employee's employment or the final regular rate received by such employee, whichever is higher.
- d. Longevity compensation shall increase the base hourly rate applying to overtime pay for hours worked during the twelve months preceding the longevity anniversary date and shall affect the payment of accrued compensatory time to an employee upon termination.

4.18 Longevity Compensation

Longevity payment shall be made to eligible employees with at least 120 full months of satisfactory service, and is subject to the following provisions:

- a. Longevity payment will occur on the first of the month following the payroll period in which the longevity anniversary date occurs. (Reference KCPR 1.4w.)
- b. Longevity payments will be subject to the standard payroll deductions of Federal Income Withholding Tax, State Income Withholding Tax, Social Security Tax (F.I.C.A.), and Employees' Retirement contributions.
- c. Previous service with county governments, state agencies, and state courts shall be used in computing longevity anniversary dates for longevity service credit purposes for persons employed by the district courts as of January 1, 1979. With the exception of prior state agency service, persons hired by district courts on and after January 1, 1979 shall not be accorded this benefit.
- d. In calculating longevity service credits, adjustments will be made to the longevity anniversary date for evaluation ratings of "below standard" or "unacceptable" work performance on or after June 18, 1989, leave without pay of 31 or more consecutive days, breaks in service, and permanent part-time and temporary employment.
- e. Leaves as a result of military service pursuant to KCPR 8.6, or receiving workers' compensation benefits after May 1, 1983 shall be counted as time worked for an employee's longevity service credit as long as the employee remains in official pay status.

hired to the monthly salary. For example, a Records Clerk I employed at Grade 9, Step A for 1/4 time employment would earn \$262.50 per month computed as \$1,050.00 x 25% = \$262.50.

Temporary employees' wages will be computed by multiplying the number of hours worked times the hourly wage rate at which the employee is hired. To compute the hourly wage rate, divide the annual amount shown on the pay scale by 2,080.

A.3 Merit Pay Steps

Step A through Step O of the compensation schedule are merit pay steps. A salary increase from Step A to Step B may be granted to all court employees after six months of service and the submission of an evaluation of "good" or better by the appointing authority.

A.4 Overtime Exempt and Nonexempt Job Classifications

- a. District personnel employed in one of the job classifications listed below are classified as exempt under FLSA and are not eligible for overtime compensation:

Exempt Job Classes

Administrative Assistant
Administrative Judge
Clerk of the District Court I
Clerk of the District Court II
Clerk of the District Court III
Clerk of the District Court IV
*Court Services Officer II - supervisory duties only
Court Services Officer III
Court Services Administrative Officer
District Court Administrator I

Exempt Job Classes (Cont'd)

District Court Administrator II
District Court Administrator III
District Judge
District Magistrate Judge
Law Related Education Specialist
Librarian I
Official Court Reporter
Programmer II
Records Clerk III
Systems Analyst
Trial Court Clerk III
Trial Court Clerk IV
Trial Court Clerk V
Trial Court Coordinator

- b. District personnel employed in one of the job classifications listed below are classified as nonexempt under FLSA and are eligible for overtime compensation:

Nonexempt Job Classes

Account Clerk I
Account Clerk II
*Accounting Technician - nonsupervisory duties
Bailiff
Clerk
Clerk Typist
Court Services Officer I
*Law Clerk - not on a judge's personal staff
Library Assistant
Records Clerk I
Records Clerk II

APPENDIX D

APPENDIX D
FAIR LABOR STANDARDS ACT
GUIDELINES

The United States Supreme Court (Feb. 19, 1985) reversed an earlier decision and held that the Fair Labor Standards Act (FLSA), 29 U.S.C., 201 et seq., applies to employees of state and local governments. Garcia v. San Antonio Metropolitan Transit Authority, 105 S. Ct. 1005. Subsequently, Congress enacted, and the President signed on November 13, 1985, an act entitled, Fair Labor Standards Amendments of 1985, which provides special rules for governmental organizations. The purpose of these guidelines is to furnish basic information concerning the application of FLSA standards and requirements to the judicial branch.

A. GENERAL GUIDELINES

Cash payment for overtime is necessary only when a non-exempt employee accumulates more than 240 hours of compensatory time or when an employee who has accumulated compensatory time terminates employment. Care should be exercised to ensure that compensatory time earned by a nonexempt employee is used within a reasonable period after it is earned. Cash payment for overtime should be avoided because the payment will cause a severe adverse impact on the personnel budget. Therefore:

1. No employee shall be regularly scheduled to work overtime.
2. Overtime should be authorized in advance by the appropriate administrative authority, e.g., district administrative judge. All time that a nonexempt employee is permitted to work, however, must be counted as hours worked whether or not such work was specifically authorized.

3. Overtime for which there must be compensatory time granted does not occur until after forty hours are worked during a seven-day work week. If a nonexempt employee is required to work more than forty hours in a week, every attempt shall be made to allow the employee to take compensatory time off as soon as feasible to avoid accumulation of compensatory time.
4. Accurate records for documenting time worked including overtime worked by each nonexempt employee shall be maintained by immediate supervisors, showing the total hours worked per day, overtime, compensatory time off earned for overtime, compensatory time off taken, and accumulated balance of compensatory time.
5. When computing overtime, any time not actually worked (even though the employee is on pay status, e.g., annual leave, sick leave, holidays, discretionary leave, etc.) will not be counted as part of the forty-hour work week for overtime pay purposes.
6. The normal work week for a full-time employee shall not exceed forty hours.

B. OVERTIME COMPENSATION GUIDELINES

Overtime compensation shall be paid in accordance with the following guidelines:

1. Nonexempt employees shall be compensated with time off.
2. A nonexempt employee may accumulate up to 240 hours of compensatory time. After that level is reached, however, overtime must be compensated for in cash. It is therefore good management procedure to require compensatory time off to be used as soon as feasible after it is earned.

When a nonexempt employee reaches 240 accumulated compensatory hours the administrative authority shall notify the Budget and Fiscal Officer.

3. If compensatory time has accumulated and employment is terminated by death, discharge, resignation, or retirement a nonexempt employee must be compensated in cash for the overtime worked. (Reference KCPR 4.17.)

C. GRIEVANCE GUIDELINE

Right to File

1. District employees in one of the job classifications listed below are classified as exempt under FLSA and are not eligible for overtime compensation:

Exempt Job Classes

Administrative Assistant
Administrative Judge
Clerk of the District Court I
Clerk of the District Court II
Clerk of the District Court III
Clerk of the District Court IV
*Court Services Officer II - supervisory duties only
Court Services Officer III
Court Services Administrative Officer
District Court Administrator I
District Court Administrator II
District Court Administrator III
District Judge
District Magistrate Judge
Law Related Education Specialist
Librarian

Exempt Job Classes (Cont'd)

Official Court Reporter
Programmer II
Records Clerk III
Systems Analyst
Trial Court Clerk III
Trial Court Clerk IV
Trial Court Clerk V
Trial Court Coordinator

2. District employees employed in one of the job classifications listed below are classified as nonexempt under FLSA and are eligible for overtime compensation:

Nonexempt Job Classes

Account Clerk I
Account Clerk II
*Accounting Technician - nonsupervisory duties
Bailiff
Clerk
Clerk Typist
Court Services Officer I
*Law Clerk - not on a judge's personal staff
Library Assistant
Records Clerk I
Records Clerk II
Secretary I* - confidential employee
Secretary II* - confidential employee
Transcriptionist
Trial Court Clerk I
*Trial Court Clerk II - nonsupervisory duties
Word Processing Technician I
*Programmer I - nonsupervisory duties

*Indicates possible exceptions. Some of these positions may be considered exempt if the employee's primary responsibility

includes supervising other employees or if the employee is on the personal staff of a judge. The Director of Personnel/Programs shall be notified of any discrepancies and will determine if the position will be classified as exempt or nonexempt.

3. Exempt and nonexempt job classes for the appellate level shall be designated by Supreme Court Order.

D. FLSA GUIDELINE DEFINITIONS

1. Actual work time refers to the actual hours worked, including, "physical or mental exertion (whether burdensome or not) controlled or required by the employer and pursued necessarily and primarily for the benefit of the employer or his business." It includes any work which the employee performs on or away from the premises.
2. Compensatory time refers to time off for nonexempt employees in lieu of payment, for working over 40 hours in a work week.
3. Confidential employee refers to the immediate support staff who serve at the pleasure of justices, judges, administrative and elected officials. (Reference KCPR 5.3)
4. Employee refers to a person who is permitted to work and provide services for wages or salary.
5. Nonexempt Employee Timesheet refers to the form that records the actual time a nonexempt employee is on the job, overtime worked, and compensatory time earned and taken.

4. Employee refers to a person who is permitted to work and provide services for wages or salary.
5. Nonexempt Employee Timesheet refers to the form that records the actual time a nonexempt employee is on the job, overtime worked, and compensatory time earned and taken.
6. Exempt job classes refer to those job classifications which conform to FSLA section 13(a) and are defined as executive, administrative, or professional positions. Employees in these job classes do not have the right to file overtime grievances because of their primary responsibilities which involve the exercise of discretion and independent judgment. (Reference KCPR Appendix A, sect. A.4.)
7. FLSA, Fair Labor Standards Act refers to the enactment by Congress in 1938 which established various labor standards including minimum wage, overtime, and record-keeping requirements for employers and employees in the private sector. This Act now makes special provisions for governmental employees by a 1985 amendment.
8. Nonexempt job classes refers to those job classifications which are not defined as executive, administrative, or professional, and do not have discretionary, supervisory, or managerial responsibilities (e.g., entry-level clerical). (Reference KCPR Appendix A, sect. A.4.)
9. Overtime refers to working time in excess of a forty-hour work week. (Reference KCPR 8.1.)
10. Overtime Compensation refers to the rate of payment for working in excess of a forty-hour work week. FLSA requires governmental employers to compensate nonexempt employees at the rate of:

- (a) an hour and a half off for an overtime hour worked, and
- (b) cash payment at the hourly rate of pay for an overtime hour worked in excess of 160 overtime hours (240 hours accumulated compensatory time), or
- (c) cash payment at terminations (for any reason, i.e., resignation, retirement, discharge, or death). Pay at termination is for overtime hours worked and is at the hourly rate of pay at termination or the average hourly rate for the last 3 years of employment, whichever is greater.

11. Work week refers to a regular recurring period of 168 hours in the form of seven consecutive 24-hour periods. The work week may begin on any day of the week and at any hour of the day. Once established by an administrative judge, a work week should not be changed unless it is intended to be a permanent change.
12. Travel time in certain instances is work performed. For nonexempt employees, normal travel to and from work is not compensable. However, if an emergency situation requires a nonexempt employee to return to work from home after normal working hours, the emergency work time shall include the necessary travel time. When a nonexempt employee must travel away from the home community (e.g., for a training seminar) the necessary travel time counts as work performed and is compensable if the employee must drive a vehicle. According to the Federal Labor Department a passenger does not qualify for compensation. Meals taken during the travel and time off before and after the seminar do not count as work performed.

NONEXEMPT EMPLOYEE TIMESHEET

INSTRUCTIONS

A time sheet shall be kept for each nonexempt employee. At the beginning of the year, or when a new employee begins work, the employee's name, title, position number, work week beginning time and day of the week, and year blanks should be filled out. If a nonexempt employee has accumulated compensatory time earned but not taken, the balance forward blank should be filled in by entering the accumulated amount in the column headed "Balance Forward," in the compensatory time section of the form.

The beginning of the workweek should be selected with care and made known to employees. If, for instance, Friday at 5 p.m. is selected, supervisors will have maximum flexibility in scheduling the employee's work; for example, if there is unavoidable work to be done on a weekend. Early scheduling of compensatory time off prevents accumulation of compensatory time which may have to be redeemed by cash payment.

Dates on the calendar part of the form which do not occur during a pay period should be crossed off. For example, in the pay period beginning February 18, three years out of four, the 29th, 30th, and 31st would be crossed off. In the fourth year (leap year) the 30th and 31st would be crossed off. Weekend days should be entered according to the key (S, Su) if no work is performed so that work weeks can be identified more easily.

In recording hours worked, actual hours shall be used. That is, if 3.5 hours are worked in the morning and 3.5 worked in the afternoon, 7 hours have been worked for the day and that figure should be shown for the date listed on the form. Whenever more than 40 hours of work accumulate during a designated 168 consecutive hour week, then overtime hours have been logged. Holidays, sick leave, annual leave, personal leave, leave without pay should be shown in the upper, calendar, section. Cumulative totals for these activities may be shown in the lower section if doing so is more convenient for your personnel record-keeping. That is, this portion of the form is not a prescribed record-keeping form except for overtime and compensatory time.

As an example of the prescribed use of the form, if a nonexempt employee were to work more than forty hours in a work week, then overtime has been worked and should be recorded in the overtime column at the end of the month. Because the preferred method of compensating for overtime is compensatory time off, overtime worked is multiplied by 1.5 in the compensatory time area of the timesheet and the result entered in the column headed "CT Earned" as a positive (plus) number. Any compensatory time scheduled and taken is entered in the calendar area on the date taken as CT (compensatory time) and also as a negative (minus) figure in the CT Taken column.

At the end of each month, the "Balance Forward" column of the timesheet should be completed by checking to be sure that all overtime hours worked from the calendar section have been posted, multiplied by the 1.5 rate and entered as compensatory time earned. The next step is to check for entries in the calendar section for compensatory time taken and to make sure these have been entered as negative (minus) numbers in the column headed "CT Taken" column. The amount in the "CT Taken" column is then deducted from the "CT Earned" column. If there is a positive (plus) result, that figure is added to the previous amount in the "Balance Forward" column. If the result is a negative (minus) figure, that amount is subtracted from the "Balance Forward" column for the previous month (or year) and the new result entered in the "Balance Forward" column.

If more than 240 compensatory time hours have been earned the figures should be closely checked to ensure there are no errors, the District designation entered, the form signed by the Supervisor, and the number of overtime hours approved by the administrative authority entered and the complete form signed by the administrative judge. The form should then be sent to the Fiscal and Budget Officer at Topeka. This procedure shall also be followed whenever a nonexempt employee terminates with a compensatory time-earned-but-not-taken balance. If the employee has not terminated, begin a new timesheet with a beginning balance of 240 hours of compensatory time earned but not taken. If you use the timesheet to keep cumulative totals for other types of leave, these totals should also be entered on the new form.

