

INTER-OFFICE MEMORANDUM

TO:	Department Directors	DATE:	August 20, 2007	FILE:
FROM:	Rosalie Mark, Director Department of Employee Relations	SUBJECT:	<u>APM 1-06 Salary Basis/Exempt Employees</u>	
		REFERENCES:		
		ENCLOSURES:		

Attached please find APM 1-06 which amends APM 5-78(II)(E) regarding attendance reporting for salary basis/exempt employees. The provisions of APM 1-06 are pursuant the Fair Labor Standards Act's (FLSA) principles of public accountability.

As you may know, APM 1-06 was previously distributed to payroll liaisons at a training session but was on hold for various reasons. APM 1-06 is the existing policy to follow regarding job basis/exempt employees.

We have also included a question/answer document. Please be certain to share this information with management personnel. In addition, the Payroll and Labor Relations Divisions will be conducting additional training on this policy.

POLICY NUMBER:
APM-1-06

ISSUED BY:

Pedro G. Hernandez
City Manager

SIGNATURE

CITY OF MIAMI



ADMINISTRATIVE POLICY

SALARY BASIS/EXEMPT EMPLOYEES

DATE:

CREATED/
REVISED
Created

DATE(S)
10/19/06

Page 1 of 2

Purpose:

To establish a clear and concise attendance reporting process for salary basis/exempt employees by defining the criteria for these employees and stating how the hours/pay of such employees are to be recorded. This policy supersedes all previous policies in relation to salary basis/exempt employees.

The Policy will be as Follows:

I. Definition of a Salary Basis/Exempt Employee

An employee shall be considered salary basis/exempt if the employee:

- A. Regularly receives a pre-determined amount of compensation each pay period on a weekly, or less frequent, basis;
- B. Predetermined amount is not reduced because of variations in the quality or quantity of the employee's work;
- C. Must receive the full salary for any week in which the employee performs any work, regardless of the number of days and hours worked, except as provided herein under Exceptions.

II. Exceptions

Pay exceptions are permissible if employees fall within one or more of the following situations:

- A. Absences of one or more full days occasioned by vacation, sickness or disability, including work-related accidents. (If more than three consecutive full days, please refer to APM-3-91 – Sick Leave);
- B. An employee is absent from work for a partial day due to illness and has sufficient sick time accrued to be compensated for the partial day.

- C. An employee requests and receives approval to use a partial day of accrued vacation.
- D. An employee's salary may be reduced if he/she is absent from work for less than a day because;
 - 1. permission for the absence has not been sought or has been sought and denied;
 - 2. accrued leave has been exhausted; or
 - 3. the employee chooses to use leave without pay
- E. Infractions of workplace conduct rules, or disciplinary action that includes time off without pay;
- F. Initial or terminal week of employment (pro-rated); or
- G. Unpaid leave under the Family and Medical Leave Act.

III. Personal Time Off

At the department director's discretion, personal time off may be granted to salary basis/exempt employees. However, when time is used under this provision, it is necessary to record such time as "personal time off" (PTO), formerly job basis leave. PTO shall not be granted in units of more than five (5) consecutive work days without the City Manager's approval.

IV. Employee Responsibility

Should employee have questions or concerns regarding policy he/she is to seek guidance from their supervisor/manager.

V. Management's Role

The term Management includes supervisory level employees and above. Management's role is to effectively communicate and uphold policy within their department. Should Management have questions or concerns regarding said policy they are to contact the Department of Employee Relations, Labor Relations Division at 305-416-2060.

Salary Basis Exempt Employees

The revisions to APM 1-06 are to be applied beginning January 21, 2007. The significant change to this policy is that a salary basis exempt employee's salary may reflect less than a day's salary for paid or unpaid absences for sick or vacation time. In addition, the employee's salary may be reduced under certain other exceptions as outlined in the policy that is also highlighted below.

1. Where are these changes in the policy?

a) Section II, Exceptions – Part B, C

A salary basis exempt employee (JB) can request and may receive approval to use a partial day of paid accrued sick or vacation time.

b) Section II, Exceptions – Part D

An employee's salary may be reduced if he/she is absent from work for less than a day.

c) Section III, Personal Time Off

Pay Code 13 will no longer be referenced as "JBL". Pay Code 13 is now "PTO", Personal Time Off.

2. When is this change effective?

The revised APM is to be applied beginning January 21, 2007.

3. What does Section II - Part B and C mean?

Previously, salary basis exempt employees could not use less than a day of accrued sick and/or vacation time. This revised policy now permits the salary basis exempt employee to request less than a full vacation day, or use less than a full sick day, which will be reflected as such on their time sheet and pay record.

4. How does this time get recorded?

Examples:

Pay Code "03" - Vacation hours = 3 hours

Pay Code "04" - Sick hours = 5 hours

5. What if the employee does not wish to use leave balances for less than a day's absence due to vacation or sick time?

It is the department director's discretion to require an employee to use leave balances for less than a day's absence.

6. What does Section II - Part D mean?

A salary basis employee's salary may not be reduced except under certain circumstances as outlined in this section, (as well as in Section II - E, F and G).

The reasons in Part D include:

- If she/he is absent from work for less than a day because they either did not request and/or receive approval for a partial day absence.
- The employee's accrued leave has been exhausted and the department director does not wish to grant paid time off, (formerly known as JBL).
- The employee receives approval by the department director to use leave without pay.

7. Can a salary basis employee still be granted "personal time off" with pay (PTO) by their department director, (formerly referred to as JBL)?

Yes, a department director has discretion to grant time off with pay to a salary basis exempt employee for a full day or less than a full day. In addition, the director may grant this time off regardless if employee has accrued leave balances.

8. How does this time get recorded?

Section III – Personal Time Off

- When "personal time off" is granted to a salary basis employee, the time is to be recorded under Pay Code "13", "PTO"
- Example:
Pay Code 13 – Personal Time Off (PTO) = 2 hours

9. What is the maximum number of hours to be granted by a department director under "PTO"?

The maximum is 40 consecutive hours or no more than five consecutive work days. Any requested time beyond these limits require City Manager approval.

The following questions/answers are to address additional feedback received regarding this APM:

- ❖ Can a salary basis exempt employee be given a work schedule?

Yes, at the discretion of the employee's director based on departmental needs.

- ❖ Can a salary basis exempt employee who is covered by a bargaining unit contract be given a tardiness instance per the contract? Can their salary be reduced due to a tardy occurrence?

The bargaining unit contract language regarding tardiness instances is applicable to hourly employees, not salary basis employees; however, the occurrence of tardiness may be noted and at the discretion of the department director, the salary basis employee may be required to use either time from their leave balance to cover the lateness, experience a loss of pay, or the director may grant "PTO".

At the discretion of the department director, excessive failure to report to work as scheduled may result in disciplinary action up to and including termination.