

Executive Leave and Absence

4.2.4

PURPOSE

The intent of this section is to memorialize the existing City of San José practice which establishes rules for the reporting of hours for salaried employees or employees exempted from the FLSA (Fair Labor Standards Act). This section also provides a definition of the Executive Leave benefit and describes how Executive Leave should be administered for eligible employees.

AUTHORITIES

City Charter Section 204. City Government -- Ethics

The citizens of San José expect and must receive the highest standard of ethics from all those in public service. City officers and employees must be independent, impartial, and responsible in the performance of their duties and accountable to the members of the public.

City of San José Code of Ethics for Officials and Employees of the City of San José:

Responsibilities of Public Service: Persons in the public service are bound to uphold the Constitution of the United States and the Constitution of the State of California and to carry out the laws of the nation, state, and the City. They are bound to observe, in their official acts, the highest standards of integrity and to discharge faithfully the duties of their offices, recognizing that the lives, safety, health, and welfare of the general public must be their primary concern. Their conduct in both their official and private affairs should be above reproach to assure that their public office is not used for personal gain.

San José Council Resolution #51870 (October 30, 2001) establishes the manner in which management employees are compensated within their respective salary ranges, based on annual evaluations of job performance and describes the basic rules for the administration of the Management Performance Program (MPP).

POLICY

Scope of Coverage

This policy applies to management and professional employees in the following employee units: AEA, ALP, CAMP, Executive Management (Unit 99), and Temporary Unclassified and Council appointees.

Overview

Full-time, salaried employees are expected to work a minimum of forty (40) hours per week. The job requirements of some salaried employees mean they regularly work considerably more than 40 hours per week, and that the time worked frequently occurs during hours outside of the normal schedule.

These circumstances are recognized by allowing flexibility in the work schedule so that, generally speaking, absences during the regular shift of less than four (4) hours do not have to be tracked

Executive Leave and Absence

4.2.4

or charged against leave balances. Absences of four (4) hours or more must be tracked on the timesheet for pay purposes pursuant to established policy and practice and to the principles of public accountability required by the City Charter and the [City of San José's Code of Ethics](#).

However, there are employees whose work is consistently confined to a regular schedule or who are on an approved Reduced Workweek schedule and are not subjected to the demands to work more than their regularly scheduled hours. In these situations, consistent with the principals of public accountability, a department may require more precise tracking of leaves. Some examples of circumstances under which you might be expected to track absences of less than four hours are:

- Employee does not regularly work beyond the forty (40) hour work week
- Employee is on an approved Reduced Workweek schedule
- Employee's activities are reported on an hourly basis to different projects or funds
- The employee's work performance is below standard

Executive Leave

Executive leave is scheduled, paid time taken off the job available to FLSA exempt employees. Executive leave is a benefit provided in recognition of the many hours, in excess of forty (40) hours per week, which may be required but are not directly compensated on an hourly basis. Executive leave is awarded as hours off, up to a maximum of forty (40) hours per payroll calendar year. Executive leave is not an accrued benefit. Employees are not paid out their executive leave when they leave the City and executive leave may not be carried over beyond the end of the last day of pay period 26. **Executive leave is a "use it or lose it" benefit based on the payroll calendar year. The payroll calendar year begins the first day of pay period one and ends the last day of pay period 26.** Upon appointment to a management position, the appropriate amount of executive leave, as described below, shall be made available to the employee.

When an employee is hired or promoted into a position eligible for executive leave, the leave will be prorated during the first year dependent on the date of hire:

Start Date in Position	Hours of Executive Leave
Jan 1 – February 28	40 hours
March 1 – April 30	32 hours
May 1 – June 30	24 hours
July 1 – August 31	16 hours
September 1 – October 31	8 hours
November 1 – End of Payroll Calendar Year	0 hours

An employee who assumes a position in a classification that is eligible to receive executive leave will have the number of executive leave hours reduced on an hour-for-hour basis based on their usage of personal leave and/or executive leave within the same payroll calendar year.

As described in the [City's Temporary Reduced Workweek Schedules Policy](#), some MOAs between the City and its bargaining units, or compensation summaries for employee units, may

Executive Leave and Absence

4.2.4

provide that employees on a reduced work week schedule will receive a prorated amount of executive leave based on the number of hours indicated on the reduced work week agreement, even if the actual hours worked exceed that amount. Please refer to the Temporary Reduced Workweek Schedules Policy for further information.

Additional Executive Leave

In some cases, the Department Director or designee may approve additional executive leave as a way to recognize commendable or outstanding performance for all employees covered by the [Management Performance Program](#), who have received a performance rating of commendable or outstanding. This is limited to two types of circumstances:

1. When a manager has been required to work an extraordinary amount of time during a particular period;
2. To recognize exceptional performance or achievement on a special project.

In either case, the added leave authorized may not exceed five additional days per payroll calendar year. **The payroll calendar year begins the first day of pay period one and ends the last day of pay period 26. It is not January 1 through December 31.** Extra executive leave awarded is reflected in the beginning of the subsequent payroll calendar year. Please see the Management Performance Program, Chapter 3.3.2 in the City Policy Manual for more information.

The following rules apply for additional executive leave:

- From one (1) to five (5) days may be awarded. For employees in Executive Management (Unit 99), CAMP, and AEA, this is in addition to the currently authorized five (5) days, for a maximum possible of ten (10) days. For employees AMSP, who are not normally authorized to use executive leave because they earn overtime, the five (5) days is the maximum possible.
- Executive leave is tracked (through People Soft) on a payroll calendar year basis, so additional executive leave approved through the annual performance process, will not be credited and available to use until the next payroll calendar year, beginning in January.

Executive Leave and Absence

4.2.4

Approved:

/s/ Jennifer Schembri
Director of Employee Relations
Director of Human Resources

June 14, 2022
Date

Approved for Posting:

/s/ Jennifer A. Maguire
City Manager

June 14, 2022
Date