

<i>FAIR LABOR STANDARDS ACT (FLSA)- EXEMPT/NONEXEMPT EMPLOYEE STATUS</i>	POLICY	
	Document Number:	AS-HR-PL-3650
	Version Number:	02

1.0 Purpose:

To ensure compliance with the salary basis requirements of the Fair Labor Standards Act (FLSA) and the requirements of the California Industrial Welfare Commission Wage Orders. To provide standards and guidance for the timekeeping and leave administration of salaried (FLSA exempt) employees.

2.0 Scope:

This procedure applies to all classifications at VTA. This policy applies unless it is superseded by the terms of a collective bargaining agreement.

3.0 Responsibilities:

The Classification and Compensation Unit of the Human Resources Department is responsible for determining the exempt or nonexempt status of each classification and whether the classification is eligible for overtime pay. Exempt/non-exempt status and eligibility for overtime pay shall be as defined in 29 CFR 541 and the California Industrial Welfare Commission Wage Orders.

4.0 Policy:

4.1 FULL DAY ABSENCES

Exempt employees shall be required to charge full day absences to an appropriate leave bank, if available. If there is not a sufficient balance in the appropriate leave bank to cover the entire absence, pay shall be docked for the remaining balance after application of the leave bank. This does not preclude temporary schedule changes for full work days, e.g. an approved schedule change in which an exempt employee works on a weekend day and takes a day off in the following week.

4.2 PARTIAL DAY ABSENCES

Exempt employees may be required to charge an absence of less than one day to an appropriate leave bank. Factors used in determining whether to approve the absence, and determinations as to whether such a charge is appropriate, shall be based on prior hours worked in excess of normal working hours, the amount of time to be taken off work, the number of prior absences, the nature of the absence, and the employee's ability to manage the workload and meet the requirements of the job. Charging an absence to a leave bank shall not impact the employee's exempt status. An exempt employee's pay shall be docked for a partial day absence when there is an insufficient leave bank to cover an absence that is to be charged.

If an exempt employee works extraordinary hours in excess of normal working hours, any resulting partial day absences granted without a corresponding charge to a leave bank should occur shortly thereafter and not accumulate or carry forward.

4.3 DISCIPLINARY SUSPENSIONS

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Pay can be docked for any suspension of one or more full workweeks without affecting an employee's exempt status. Pay may be docked for disciplinary suspensions of less than a full workweek only for suspensions imposed for sexual harassment, violence, drug or alcohol violations or violations of state or federal law that are also in violation of a written policy applicable to all VTA employees, or for serious safety violations.

5.0 Procedure:

- 5.1 All newly created classifications shall be tested using the standard tests for exemption from the provisions of the Fair Labor Standards Act (FLSA). To determine the exemption status, the Human Resources Department shall conduct the FLSA tests by reviewing the job description and/or interviewing the supervisor/department head/employee regarding the job requirements. All newly created classifications shall also be reviewed to determine if they are eligible for overtime based on state laws.
- 5.2 If the responsibilities of a classification change, or if the current exemption status of the classification is in doubt, the supervisor and/or the employee shall notify the Human Resources Department, who shall review the classification to reach a final determination.
- 5.3 Some otherwise exempt classifications may be paid overtime, based on the negotiated provisions in the Collective Bargaining Agreement. However, this does not affect whether the classification is considered exempt under the FLSA.
- 5.4 If an employee believes that an improper deduction has been made to his/her salary, the employee shall immediately report this information to his/her direct supervisor. Reports of improper deductions shall be promptly investigated. If it is determined that an improper deduction has occurred, the employee shall be promptly reimbursed for any improper deduction made. VTA shall use the "window of correction" as prescribed in the Code of Federal Regulations (29 CFR 541.603) in order to correct the deduction and maintain the employee's exempt status.

6.0 Definitions:

EXEMPT: Employees to whom VTA is not required by applicable law to pay overtime.

NON-EXEMPT: Employees to whom VTA is required by applicable law to pay overtime.

7.0 Records:

The Classification and Compensation Unit shall maintain the lists of the exempt/nonexempt status of classifications and the classification's eligibility for overtime pay.

8.0 Appendices:

N/A

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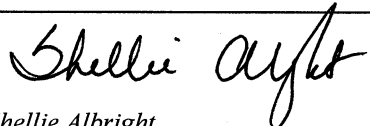
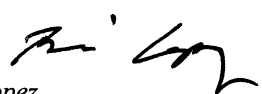
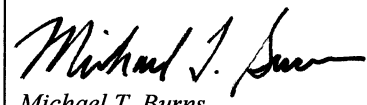
9.0 Training Requirements:

Human Resources staff shall be trained in how to apply the requirements of pertinent state and federal laws and regulations.

10.0 Summary of Changes:

This policy revises and replaces policy 110- Exempt/Non-Exempt Status and Classification. This policy addresses when leave banks will be charged and pay will be docked and complies with the updated FLSA regulations.

11.0 Approval Information:

Prepared by	Reviewed by	Approved by
 Shellie Albright	 Bill Lopez	 Michael T. Burns

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