


THE CALIFORNIA STATE UNIVERSITY
Office of the Chancellor
401 Golden Shore, 4th Floor
Long Beach, California 90802-4210
(562) 951-4411

Date: December 21, 2005 **Code: TECHNICAL LETTER**
HR/Salary 2005-29

To: Human Resources Directors
Payroll Managers

From: Cathy Robinson 
Assistant Vice Chancellor
Human Resources Administration

Subject: **Clarification: Holiday Work Compensation Reporting and Processing**

“Holiday work compensation” provisions, included in collective bargaining agreements (CBAs) and California State University (CSU) policy, under certain circumstances, have an impact on retirement compensation, Fair Labor Standards Act (FLSA) requirements, leave accounting and payroll processing. This memorandum clarifies these impacts.

Background Information: “Holiday work compensation” is a term used to define a compensatory action when an employee is required or scheduled to work on the day a holiday is observed officially at a campus. Holiday work compensation provisions are discussed in CBAs and CSU policy. Typically, premium compensation is provided to employees working on the day the holiday is officially observed at the campus. The premium compensation may be paid in the form of cash, typically at the employee’s overtime rate on an hour-for-hour basis, or it may be credited as compensatory time off (CTO)¹ for all hours worked on the holiday observance date. While this provision is generally applicable to employees in classifications subject to the Fair Labor Standards Act (FLSA), specific CBAs provide exceptions.²

¹ Note: “Holiday Credit” and “Holiday CTO” terminologies were used in the same context as holiday work compensation CTO in previous CBA’s and CSU policy memorandum.

² * Article 14 of the California State University Employees Union (CSUEU) Memorandum of Understanding (MOU) provides time off earned at the straight time rate for employees not eligible for overtime as listed in Section IV of Appendix C.

* Article 33 of the California Faculty Association (CFA) MOU provides a maximum of eight (8) hours holiday compensating time off to a faculty unit employee who is authorized to work and works on the day a holiday is observed, as scheduled by mutual agreement of the faculty unit employee and the appropriate administrator.

* Article 22 of the California Federation of the Union of American Physicians and Dentists (UAPD) MOU provides that an employee who works on a holiday shall receive eight (8) hours holiday credit on a straight-time basis, pro rata for less than full time employees.

Distribution:

CSU Presidents
Vice Chancellor, Human Resources
Vice Presidents, Administration
Employee Relations Designees
Director, SOSS

CalPERS' Definition of "Special Compensation"

⇒ ***When Holiday Pay is Special Compensation:*** The California Public Employees' Retirement System (CalPERS) regards "holiday pay" as special compensation that is subject to retirement withholding. Working events that qualify as special compensation include those where employees are required and scheduled to work without regard to holidays. Typically, this would involve employees in work settings that provide coverage twenty-four (24) hours per day, seven (7) days per week (such as correctional institutions), or in other environments that schedule employees to work on holidays as part of their normal work schedule, such as law enforcement and firefighters. If affected employees are paid over and above their normal salaries when they are regularly scheduled to work on a day that a holiday is observed, that additional compensation is considered "holiday pay" and is reportable to CalPERS. Conversely, "holiday pay" is not reportable to CalPERS when employees are required to work on holidays because of workload problems, overtime needs or project deadlines.

For the CSU, classifications that typically would be covered under the CalPERS special compensation definition would include Public Safety-related classifications (e.g., Unit 8 and Excluded [E99]), 24-hour Plant Operations-related classifications (e.g., Skilled Crafts Unit 6 and International Union of Operating Engineers Unit 10), and classifications responsible for 24-hour computer/system operations (e.g., CSUEU Unit 9). Campuses need to assess operations to determine if other occupations qualify under the CalPERS special compensation definition based upon an assessment of the job and regular work schedule requirements.

⇒ ***Cash Payments:*** If an employee works in a classification that meets the CalPERS special compensation definition, and the holiday work compensation premium payment is paid in cash, the compensation may be reported as earned (e.g., paid in the pay period that the holiday work compensation is earned), or on a quarterly, semi-annually or yearly basis.

Holiday pay subject to CalPERS retirement withholding may not be paid out beyond the year in which it is earned, nor should the holiday pay exceed the total number of holidays granted by the employer for a given calendar year. For example, an employee should not be paid holiday pay equivalent to twenty (20) holidays in a given calendar year if the employer provides for thirteen (13) holidays in that same calendar year.

FLSA Considerations for Holiday Work Compensation

⇒ ***Exemption from FLSA's Compensatory Time Off (CTO) Maximums for Overtime:*** Unless otherwise required by the CBA or policy, holiday pay/holiday work compensation CTO is not subject to the 240 or 480-hour maximum limits established pursuant to FLSA for CTO earned as a result of working overtime. Holiday pay/holiday work compensation that is earned by an employee for employment activity external to a FLSA requirement is considered as "other" compensatory time. Federal law speaks only to federally defined hours worked, workweeks and overtime; it does not prohibit more generous provisions for employees, as may be prescribed by the CBA or policy.

Tracking Holiday Work Compensation CTO in Leave Accounting Systems

- ⇒ ***Considerations:*** Co-mingling CTO hours earned as a result of working overtime with holiday work compensation CTO hours creates the situation where non-FLSA CTO hours could be treated as FLSA CTO hours. While co-mingling hours is allowable, campuses are reminded to maintain consistent record-keeping practices. It is important that campuses either distinguish the holiday work compensation CTO hours from the overtime CTO hours, or treat all hours under the FLSA CTO requirements. Note, however, that in situations where holiday work compensation is paid out in cash versus credited as CTO, co-mingling these hours may be problematic. For example, if all hours are treated as FLSA CTO and paid out as "overtime" compensation, the hours will not be reported as "special compensation" and would therefore not be subject to retirement withholding. Further, if not otherwise distinguished, these hours would be subject to FLSA maximums, CBA and CSU policy provisions that require a pay out of hours in excess of a prescribed maximum in a specified timeframe.
- ⇒ In instances where CTO hours (holiday work or overtime) are used to supplement an employee's paid time off work, the hours are regarded as "regular" compensation for retirement reporting purposes.

Payroll Processing of Holiday Work Compensation

⇒ ***Earnings IDs to Process Holiday Pay:*** The State Controller's Office (SCO) Payroll Procedures Manual (PPM) Section G925 identifies earnings IDs for processing holiday pay. The "Holiday Pay Determination Chart" is identified in Section G929. These codes are available to all agencies/campuses paid through the state payroll system; they are not exclusive to the CSU.

Note that because holiday work compensation, when paid in cash, is typically at the employee's "overtime rate" pursuant to the respective CBA/CSU policy, the overtime rate typically would incorporate stipends, shift and other pay differentials as appropriate. In this instance, the overtime rate must be calculated manually. Using the computer-generated earnings ID ("H6") would not be appropriate because it derives the overtime rate based upon the employee's base salary rate in the employment history record. Earnings ID "H6" is used to request pay only when there are no other includable compensations to incorporate into the

regular rate of pay other than the base salary rate. As a result, holiday work compensation for CSU employees (specifically employees that have other includable compensation for the purposes of establishing the regular rate of pay), will generally be keyed via PIP under Earnings ID “**HG6**” (versus “H6”) to incorporate any other includable compensation such as stipend and shift differential pay, into the regular rate of pay.

⇒ **Payroll Warrants - Special Considerations:** Payments keyed under earnings ID “HG6” have two description types in the state payroll system based upon the classification code for which payment is being requested. The grid below is provided to indicate the payroll warrant description when “HG6” is keyed for certain classifications. As a reminder, earnings ID HG6 is subject to CalPERS retirement withholding. Holiday pay codes are taxed at a flat rate method. Overtime CTO, paid under the SCO’s designated overtime codes (denoted as “FLSA OT”) are not subject to retirement withholding:

When “HG6” is keyed for:	The warrant description will indicate:
Holiday Pay, subject to CalPERS retirement, for Public Safety (Unit 8) and CSUEU Unit 7 classifications	“PLANNED OT”
Holiday Pay, subject to CalPERS retirement, for all other classifications outside of Public Safety (Unit 8) and CSUEU Unit 7 classifications	“HOLIDAY”

Examples:

Situation #1: An employee is a Police Officer represented by the State University Police Association (SUPA Unit 8). Unit 8 classifications qualify as special compensation under CalPERS because they are law enforcement related. The regular work schedule requires the employee to work on regularly scheduled days without regard to campus holiday observances. The employee works the normal shift on a day the campus observes a holiday. Overtime is not worked during the workweek period that the holiday is observed. The officer is on a 3/12 pay plan schedule and works a twelve (12) hour shift on the holiday observance date. The CBA provides that the employee be compensated at his/her overtime rate on an hour for hour basis for the actual number of hours worked.

The employee’s regular rate of pay is \$20.00 per hour, which includes stipend and shift differential pay. The employee’s overtime rate is \$30.00/hr. The monthly salary warrant is partial compensation for the hours worked on the holiday. The employee also receives the Holiday Work Compensation premium in a separate payment when the campus processes:

- PIP payment for Holiday Work Compensation (Holiday Pay) via “HG6” x 12 hours = \$360 (\$30 x 12).

TECHNICAL LETTER

HR/Salary 2005-29

Page 5 of 5

- Situation #2: A Corporal is required to work four (4) hours of overtime on a holiday when he is not regularly scheduled to work. Pursuant to the CBA, the time worked is compensated pursuant to the holiday work compensation provision; however, for CalPERS purposes, the holiday work compensation payment is not regarded as special compensation. In this instance, if paid in cash, the employee would be paid at the overtime rate via “FLSA OT” code for the four (4) hours worked on the holiday. This payment would not be subject to retirement withholding.
- Situation #3: Payroll Technicians (CSUEU Unit 7 classification) and Confidential Administrative Support (Confidential classification) staff are requested to work during the campus Holiday closure between Christmas and New Year’s. Pursuant to the CBA and CSU Policy, the employees will be compensated at their respective overtime rate on an hour-for-hour basis for all hours worked on the holiday. In this instance, if paid in cash, the employees would be paid at their respective overtime rate via “FLSA OT” code for the number of hours worked during the holiday closure. Payment via “HG6” is **not** appropriate in this instance because the Payroll Technician and Confidential Administrative Support classifications do not qualify under the CalPERS definition of “special compensation.”

Questions regarding this technical letter should be directed to Human Resources Administration at (562) 951-4411. This technical letter is available on Human Resources’ web site at: <http://www.calstate.edu/HRAdm/memos.shtml>.

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