

MEMORANDUM

Date: February 18, 1994

Reference Code: 94-12

To: PERSONNEL MANAGEMENT LIAISONS

THIS MEMORANDUM SHOULD BE DISTRIBUTED TO:

Employee Relations Officers  
Personnel Officers

*Talks about  
4C policy*

From: Department of Personnel Administration  
Labor Relations Division  
1515 "S" Street, North Building, Room 400  
Sacramento, CA 95814

Subject: Fair Labor Standards Act Exempt Employee Work Policy  
Dispute Reduction Process for CSEA Bargaining Units

The Department of Personnel Administration (DPA) recently issued a Personnel Management Liaison Memorandum (94-08)-Restructure of the State Work Week Group (WWG) System. Included in this document was the Fair Labor Standards Act (FLSA) Exempt Employee Work Policy, which was recently negotiated as part of a settlement agreement between the State and the California State Employees Association (CSEA). This agreement is attached.

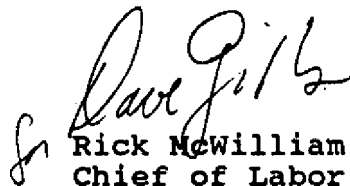
This policy applies to all WWG 4C and 4D7 employees in CSEA Bargaining Units 1, 3, 11, 20 and 21, and is effective January 24, 1994. One component of this policy is a prohibition against charging absences of less than a whole day to leave credits or dock. Departments should review the leave usage and docking of less than a whole day for WWG 4C and 4D7 employees in these Bargaining Units and make the appropriate adjustments retroactive to January 24, 1994.

In addition, DPA and CSEA agreed to resolve disputes pertaining to this policy through an expedited dispute resolution process in lieu of the grievance and arbitration process. This process shall be administered as follows:

1. Whenever a dispute arises regarding the interpretation or application of the FLSA Exempt Employee Work Policy, the Union shall initiate this dispute resolution process within 21 calendar days of the date of the event. The department, in which the dispute arises, shall have 30 calendar days to meet with the Union and resolve the dispute and/or issue a written response.
2. If the resolution and/or departmental response issued in paragraph one above is not acceptable to the Union, the Union shall elevate the dispute within 21 calendar days to a dispute resolution panel by sending a letter to DPA.

3. Within 21 calendar days of the receipt of the letter, the panel shall begin the process of resolving the dispute. This panel shall consist of one Union representative, one DPA representative, and a mutually agreed upon third party.
4. If the dispute is not resolved within 30 calendar days after the initial meeting of the panel, the neutral third party shall issue a decision and remedy.

If you have any questions regarding this matter, you may call Dennis Fujii, DPA Labor Relations Officer, at (916) 324-0429, CALNET 454-0429.



Rick McWilliam  
Chief of Labor Relations

Attachment

SETTLEMENT AGREEMENT

In the interests of promoting harmonious labor relations between the parties and avoiding the uncertainty, inconvenience, and expense of litigation, the State of California (Department of Personnel Administration) (hereinafter "State" or "DPA") and the California State Employees Association (hereinafter "CSEA"), exclusive representative for State Bargaining Unit 21 and other affected State Bargaining Units, in settlement of Grievance 90-21-0004 and related grievances, hereby agree and stipulate to the following:

1. A dispute has arisen between the parties concerning the meaning of flexible work schedules for represented employees in Work Week Group 4C and 4D7. This Settlement Agreement shall resolve Grievance 90-21-0004 and certain related grievances identified, as follows:

90-01-0062  
90-03-0033  
90-04-0137  
90-11-0014  
90-14-0015  
90-15-0029  
90-17-0016  
90-20-0018.

2. It is the understanding of the parties that the document titled "Work Policy for FLSA Exempt Employees," Attachment "A" hereto, shall become the adopted policy for all FLSA exempt State employees. As it applies to the bargaining units involved in this case, i.e., CSEA Bargaining Units 1, 3, 11, 20 and 21, the language of this policy shall be incorporated into the existing Memoranda of Understanding (MOU) in these bargaining units and shall supersede existing Work Week group definitions for 4C and 4D7 under these various MOUs and existing pay scales. All other language in these MOUs, however, remains in effect.

3. Upon request of the Union within 90 days of the effective date of this Settlement Agreement, the parties agree to meet and confer within a reasonable period of time regarding the disposition of claims for existing overtime credits, whether formal or informal, and the recrediting of leave credits. These meet and confer sessions may occur on a Statewide or department-by-department basis.

4. To insure a speedy resolution of disputes that may arise after the effective date of this Settlement Agreement concerning the "Work Policy of FLSA Exempt Employees", the parties agree that the following expedited procedure shall be utilized in lieu of the existing dispute resolution mechanism, i.e., grievance and arbitration procedure in the existing MOUs.

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inconvenient  
called  
(hereinafter  
Employees  
representative  
affected  
Grievance  
and stipulation  
concerning  
representative  
Settlement  
and certain

- a. Whenever a dispute arises regarding interpretation or application of the Work Policy for FLSA Exempt Employees (hereafter referred to as Work Policy), the Union shall initiate this expedited resolution process within 21 calendar days. The department in which the dispute arises shall have 30 calendar days to meet with the Union and resolve the dispute and/or to issue a written response to the Union at the end of the 30 calendar day period.
- b. If the resolution reached in a., and/or departmental response received in a. above, is not acceptable to the Union, the Union shall, within 21 calendar days, elevate the dispute to the dispute resolution panel level. This shall be executed by a letter to the Department of Personnel Administration. Upon receipt of this letter, within 21 calendar days, the dispute resolution panel shall begin the process of resolving the instant dispute.
- c. The dispute resolution panel referenced above shall consist of one Union representative named by the Union, one DPA representative, and an independent neutral third party

mutually selected by the State and the Union either from a mutually agreed upon list or through a striking mechanism similar for selecting an arbitrator. This individual shall chair the proceedings and function as mediator for the purposes of facilitating an agreement to dispose of the conflict.

- d. If within 30 calendar days after the initial meeting of the dispute resolution panel the dispute has not been resolved, the neutral third party shall issue a decision and remedy, consistent with the MOU and this policy, which shall be final and binding on the parties.
- e. It is the intent of the parties that one individual be retained to function as the neutral third party for the purpose of gaining expertise in resolving these disputes so that quick and equitable decisions can be made. All other matters pertaining to the choice and functioning of the neutral third party shall be identical to the provisions applicable to the arbitration process.

5. CSEA hereby withdraws its Grievance 90-21-0004 and certain related grievances, described above, and waives any right to arbitrate said grievances.

6. This Settlement Agreement represents a full, complete and final resolution of the disputes between the parties relating to the above-described grievances.

7. Nothing in this Settlement Agreement shall be considered an admission of liability by the State, or an admission that it has engaged in any wrongdoing, violated any Memorandum of Understanding, or violated any provision of the Ralph C. Dills Act or any other law or regulation, including the Fair Labor Standards Act and attendant federal regulations.

8. The State and CSEA agree to share equally in the costs associated with cancelling this arbitration, if any.

9. Nothing contained in this Settlement Agreement shall be considered as binding precedent by the parties in any subsequent dispute concerning this issue or similar issues.

10. Each person executing this Settlement Agreement represents that such person is authorized to do so and in the capacity so indicated hereinbelow.

DATED: 1/24/94

/S/  
BARBARA WILSON  
Alternate Deputy Division  
Director--Bargaining

DATED: 1/24/94

/S/  
DANIEL REIBSON  
Chairperson, Unit 21

DATED: 1/24/94

/S/  
J. J. JELINCIC  
Chairperson, Unit 1

DATED: 1/24/94

/S/  
JAMES WHEATLEY  
Senior Labor Relations  
Officer  
Department of Personnel  
Administration

DATED: 1/24/94

/S/  
DENNIS FUJII  
Labor Relations Officer  
Department of Personnel  
Administration

DATED: 1/24/94

/S/  
PAUL M. STARKEY  
Labor Relations Counsel  
Department of Personnel  
Administration

## Attachment

### Work Policy for FLSA Exempt Employees

State employees who are exempt from the FLSA are not hourly workers. The compensation they receive from the State is based on the premise that they are expected to work as many hours as is necessary to provide the public services for which they were hired. Consistent with the professional status of these employees, they are accountable for their work product, and for meeting the objectives of the agency for which they work.

Following is the State's policy for all employees exempt from the FLSA:

1. Management determines, consistent with the current MOU's, the products, services, and standards which must be met by FLSA exempt employees.
2. The salary paid to FLSA exempt employees is full compensation for all hours worked in providing the product or service.
3. FLSA exempt employees are not authorized to receive any form of overtime compensation, whether formal or informal.
4. FLSA exempt employees are expected to work within reason as many hours as necessary to accomplish their assignments or fulfill their responsibilities.
5. Consistent with the services which management has determined must be provided, FLSA exempt employees are to be given discretion in establishing their work hours. Employees are responsible for keeping management apprised of their schedule and whereabouts, must receive approval from management for the use of formal leave (e.g. vacation, sick leave, personal leave) and for absences of one day or more and must respond to directions from management to complete work assignments by specific deadlines.
6. Consistent with the salaried nature of FLSA exempt employees, these employees:
  - a. Shall not be charged any paid leave for absences in less than whole day increments.
  - b. Shall not be docked for absences of less than a day.
  - c. Shall not be suspended for five days or less when facing discipline.
  - d. Shall not have absences of less than a day recorded for attendance record keeping or compensation purposes.

For 94-12(B) all 94-26  
There is no 94-13\*

MEMORANDUM

PERSONNEL MANAGEMENT LIAISONS

DATE: March 25, 1994  
REF: 94-12/h

RE: THIS MEMORANDUM SHOULD BE DISTRIBUTED TO:  
DEPARTMENT ACCOUNTING, PERSONNEL AND HEALTH SAFETY OFFICERS,  
MERIT AWARD AND EAP PROGRAM COORDINATORS

FROM: Department of Personnel Administration

SUBJECT: Administrative Fees - Workers' Compensation and Safety, Merit Award Program,  
Part-Time, Seasonal/Temporary Retirement Plan, Employee Assistance Program and  
Premium Only Plan.

Effective April 1, 1994, changes will be made to the fee structure for the Workers' Compensation and Safety Program (WCSP) and Merit Award Program (MAP). WCSP and MAP will be fully reimbursable, i.e. the Department's cost of these programs will be paid by the client agency receiving services. WCSP fees will be charged to departments based on a percentage of State workers' compensation costs. Individual department invoices will be mailed separately. These costs are currently allocated to departments through the prorata process. For the MAP, \$1.80 will be charged annually based on each department's number of permanent employees. Both WCSP and MAP fees will be charged once each fiscal year, commencing with the first assessment completed in April 1994, for services rendered in FY 1993-94.

Also effective April 1, 1994, the Part-Time, Seasonal/Temporary Retirement Program (PST) fee is being reduced to \$4.25 per deduction from \$4.75 per deduction. Effective July 1, 1994, the following benefit program administrative fee adjustments will occur. For Fiscal Year 1994-95, the Premium-Only-Plan (POP) fees will be reduced from \$4.20 per year, per covered employee to \$2.40 per year, per covered employee. This is a one-time savings to departments of \$1.80 per year, per covered employee. For the State Employee Assistance Program (EAP), administrative fees will be increased from \$1.20 per year, per covered employee, to \$1.80 per year, per covered employee. This is a new cost of 60 cents per year, per covered employee. This increase is to pay the actual costs of program overhead and required program activities. In addition, the premiums for EAP services are changing effective July 1, 1994. Agencies with Peace Officer/Firefighter employees (Bargaining Units 5, 6, 7 and 8) will see a premium decrease in FY 1994-95, while agencies with mostly miscellaneous employees will see a slight increase for FY 1994-95 to about what the premiums were in FY 1992-93.

Department staff may direct questions to the Benefits and Training Division at (916) 322-0300 (CalNet 492-0300). Because of the number and variety of issues covered in this memorandum, staff will either answer questions, route the call or take a message and have the appropriate staff person return the call.



Melvin D. Turner, Chief,  
Administrative Services Division

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Labor Relations Division  
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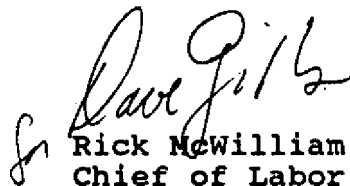
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/S/  
BARBARA WILSON  
Alternate Deputy Division  
Director--Bargaining

DATED: 1/24/94

/S/  
DANIEL REIBSON  
Chairperson, Unit 21

DATED: 1/24/94

/S/  
J. J. JELINCIC  
Chairperson, Unit 1

DATED: 1/24/94

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JAMES WHEATLEY  
Senior Labor Relations  
Officer  
Department of Personnel  
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DENNIS FUJII  
Labor Relations Officer  
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PAUL M. STARKEY  
Labor Relations Counsel  
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