



CITY OF DUBLIN

**CITY OF DUBLIN
ADMINISTRATIVE ORDERS
OF THE CITY MANAGER**

ADMINISTRATIVE ORDER 2.48
TO: Department/Division Heads, Supervisors, and Employees
FROM: Terry Foegler, City Manager
SUBJECT: Rate of Pay for Special Event Assignments
DATE: July 22, 2010
Supersedes and Replaces Administrative Order 2.48 Dated August 12, 1996 Regarding Same Subject.

I. PURPOSE

The purpose of this Administrative Order is to establish a written policy addressing the rate of pay to be earned by non-exempt employees for work performed in conjunction with special event assignments; to assign authority and responsibility for determining the correct rate of pay each employee is to earn for each event in question; and to provide interpretive guidance regarding the application of the policy. Any questions regarding this Administrative Order should be directed to the division of Human Resources. This Administrative Order shall be effective immediately.

II. POLICY

It is the policy of the City Manager that non-exempt employees who, solely at their option, work special event assignments on an occasional or sporadic basis, in a different capacity than the one in which they are regularly employed, shall be paid their regular straight time rate of pay for each hour worked in such special events capacity. Should the nature of the special event assignment, however, be similar to their regular job functions, the rate of pay for each hour worked shall be at the rate of time-and-one-half their regular hourly rate of pay. In addition, should the employee perform special event assignments, whether similar to his/her regular job functions or not, on the seventh consecutive day within his/her workweek, he/she shall be paid at the rate of double time provided he/she also worked a minimum 32 hours the five (5) previous days plus a minimum of three (3) hours on the sixth (6th) day.

The underlying basis for this policy is found in Section 7 (p) (2) of the Fair Labor Standards Act which provides that local government employees may, solely at their option, work occasionally or sporadically on a part-time basis in a different capacity than the one in which they are regularly employed, and the hours worked in the different capacity need not be combined for the purpose of determining overtime compensation under the FLSA.

III. AUTHORITY/RESPONSIBILITY FOR DETERMINING APPLICABLE RATE OF PAY

The authority/responsibility for determining whether the straight-time or time-and-one-half rate of pay is applicable to employees performing special event assignments is hereby assigned to the Department/Division Head of the employee who will be working the special event assignment, or designee, and the Events Manager. If necessary, the Department/Division Head, or designee, and Events Manager may jointly consult with the Director of Human Resources in order to fully understand the nature of the special events assignment in question and the degree to which the assignment is similar to the employee's regular job functions. It shall also be the responsibility of the Department/Division Head, or designee, to notify his/her employees of the rate of pay each will earn, prior to the employee performing the special event assignment.

IV. INTERPRETIVE GUIDANCE

All Department & Division Heads are hereby advised that in making a determination on which rate of pay is applicable to the employee in question, proper emphasis should be placed on the phrases “**solely at their option**”, “**occasional and sporadic**”, and “**different capacity**”, as used in the Policy section of this Administrative Order. A proper understanding of these phrases and terms is critical to making the correct determination on rate of pay.

The phrase “**solely at their option**” means that the employee must choose to work the special event assignment purely on his/her own volition, as opposed to at the request of the employer or as required by the employer.

“**Occasional and sporadic**” means infrequent, irregular or occurring in scattered instances, as opposed to being scheduled on an everyday, consistent basis.

“**Different capacity**” means in a capacity distinctly different from the “regular functions” normally performed by the employee. “Regular functions” means the actual tasks performed, not the common expectations associated with all employee behavior. For example, the City has a common expectation that all employees render good “customer service” at all times. This does not mean that employees who are commonly expected to render good “customer service” in their regular positions should receive pay at the rate of time-and-one-half for rendering good “customer service” when performing special event tasks that are distinctively different from their regular position tasks.

Care should be exercised in applying these phrases and terms to each special event assignment as a misunderstanding or misapplication could expose the City to back-pay liability under the Fair Labor Standards Act (FLSA) regulations.