

**DEPARTMENT OF HEALTH SERVICES  
COUNTY OF LOS ANGELES**



**SUBJECT:** WORK WEEK: 5/40 TO 9/80 – FLSA EMPLOYEES

**POLICY NO:** 750.01

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**PURPOSE:** To provide guidance for determination of the workweek for employees converting from a normal 5 day, 40 hour workweek to an alternate 9/80 schedule.

**POLICY:** Departments are responsible for determining the workweek for their employees by defining the 7-day period. It can begin and end on any day of the week. Departments may have all of their employees on the same workweek, or have groups of employees or individual employees on different workweeks.

**PROCEDURE: I. CHANGING WORKWEEKS**

Once established, the workweek may not be changed to avoid the payment of overtime. However, it may be changed if the change is meant to be permanent.

Such a change may result in an overtime liability. The principle here is that the employee cannot suffer a loss in compensation due to a schedule change. When an employee's workweek is changed (i.e., going from a Monday through Sunday workweek to a Sunday through Saturday workweek, or going from a 5/40 workweek to an alternate schedule such as 9/80), this change must be noted on the timecard.

Upon receipt of the timecard, payroll staff must analyze the two workweeks for Federal Labor Standards Act (FLSA) covered employees as follows: (Note: This section does not apply to "exempt" employees.)

1. Compute the hours worked in each week, assuming the hours worked during the overlapping period belong only to the first week.
2. Compute the hours for each week, assuming the overlap is part of the second week only.
3. The employee must be paid the greater amount of overtime pay (if any) resulting from the alternative calculations in (1) and (2) above.

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**APPROVED BY:**

**EFFECTIVE DATE:** May 1, 2005

**SUPERSEDES:**

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## II. 9/80 WORK SCHEDULES

9/80 work schedules (schedules with 80 hours worked in nine (9) days) present a special circumstance relative to FLSA as they span two workweeks, which will contain overtime unless special care is taken in defining the workweek. To address this concern, the workweek shall begin at a point which divides the 14 days into two (2) 40-hour weeks (specifically, the workweek should be changed to begin at noon on the day off.) This splits the hours worked on that same day in the following week so that they fall into two different workweeks.

To ensure that only 40 hours are scheduled in each of the two weeks comprising the 9/80 schedule, the FLSA Start Date must begin at noon (or four hours after the beginning of the employee's workday) on the recurring day off.

## III. EMPLOYEES CONVERTING FROM A 5/40 WORK SCHEDULE TO A 9/80 WORK SCHEDULE

In order to standardize the conversion process and to ensure uniformity in converting from a 5/40 work schedule to a 9/80 work schedule, the following process will be effective:

The Employee will start the 9/80 work schedule with a Regular Day Off (RDO) as outlined in the example below.

**EXAMPLE: EMPLOYEE STARTS 9/80 WITH A REGULAR DAY OFF (RDO). The RDO is on a Monday.**

	S	M	T	W	T	F	S	
Week 1		8	8	8	8	8		(Last workweek on 5/40)
Week 2		0	9	9	9	9		(Employee starts 9/80 with a day off)
Week 3		8	9	9	9	9		

In the above example, the employee's workweek on the 9/80 work schedule will start at noon on Monday of Week 2 and end at noon on Monday on Week 3.

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**VI. ROTATING REGULAR DAYS OFF (RDO)**

1. Employees covered under FLSA

Employees covered under FLSA cannot change or rotate their RDOs.

2. Employees not covered under FLSA (exempt)

Exempt employees who cannot take their RDO on their regularly scheduled day off may take an RDO on an alternate day within the next two week cycle.

Exempt employees cannot take their RDO before their regularly scheduled RDO (i.e., an employee who has a regularly scheduled RDO on Friday, February 18, 2005 may not rotate that RDO to Wednesday, February 16, 2005, and subsequently work on Friday, February 18, 2005. However, he/she can work on Friday, February 18, 2005 (at least eight (8) hours) and have until Thursday, March 3, 2005 to take an RDO. If the RDO is not taken by the March 3, 2005 date, it is lost.)

**CROSS**

**REFERENCES:** Los Angeles County Code, Section 6.12.020(A)  
Interpretive Manual

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**EFFECTIVE**

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