

SIDE LETTER AGREEMENT RE: ARTICLE 31.A.1.d.

Background

Article 31.A.1.d. of the MOU includes a new provision for a 7/12 schedule for the Sheriff's Records Clerks who work in the Sheriff's Corrections Bureau. That Article provides that the implementation of that schedule is subject to coordination with the Auditor-Controller-Treasurer-Tax Collector and the Information Services Department.

The Auditor and ISD have determined that the County's current payroll system cannot recognize a modified work period, which is a key component of Article 31.A.1.d. The new schedule therefore cannot be implemented exactly as described in the Article.

Interim Implementation Plan

Until such a time as the County's technology permits the implementation of a 7/12 schedule exactly as described in Article 31.A.1.d., the Union and the County agree to implement a 7/12 with certain modifications on an interim basis.

The interim implementation plan captures the following key elements of Article 31.A.1.d:

- 1) All Sheriff's Records Clerks in Corrections will work three 12-hour days one week of each pay period and four 12-hour days the other week of each pay period;
- 2) Employees who work their full assigned schedule will receive four hours of overtime each pay period, and the overtime hours will not count toward step advances, County Service hours, probation, leave accruals, or similar purposes;
- 3) Employees will not take holiday time off and will instead accrue holiday credit in an amount equivalent to 112 hours (14 days) of holiday pay per year which will be cashed out twice a year; and
- 4) Employees will accrue leave on the same basis as employees who work a standard 5/8 schedule.

The interim implementation plan differs from Article 31.A.1.d. in the following ways:

- 1) Because the payroll system cannot recognize an alternate designated (i.e., "modified") work period, the fourth 12-hour day in the long week cannot be split between two work periods as described in Article 31.A.1.d and as permitted by the Fair Labor Standards Act (FLSA). Instead, employees' work periods will be based on the standard Saturday to Friday County work week, and employees will work 36 hours one week and 48 hours the other week.
- 2) To ensure 40 hours per week of PERSable time and compliance with the FLSA, employees' timecards will be coded as follows:

A. Long (48 hour) week:

- a. The first three 12-hour days will be coded as 888 regular time worked (PERSable);
- b. The fourth 12-hour day will be coded as follows:
 - i. 4 hours of 888 regular time worked (PERSable);
 - ii. 4 hours of 777 overtime paid at time-and-a-half (non-PERSable);
 - iii. 4 hours of 999 compensatory (comp) time earned (non-PERSable):
 - a. The comp time will be earned at time-and-a-half. Employees will code four hours of comp time earned on their timecard, but six hours of comp time will be deposited in their comp time bank; and,
 - b. Any differentials/premium pay due on the comp time earned will be paid out to the employees along with their overtime at the time the comp time is earned.

B. Short (36 hour) week:

- a. 36 hours of 888 regular time worked (PERSable);
 - b. 4 hours of 044 comp time taken (PERSable)
 - i. Comp time taken functions identically to 888 time except that it does not count as time worked for purposes of overtime, and no differentials are paid out on it. Differentials are paid at the time comp time is earned, not when it is taken.
- 3) Comp Time Bank. Employees will have six hours of comp time deposited into their comp bank each pay period (in the long week) and will use only four hours of comp time each pay period (in the short week), causing their comp time balance to increase by two hours per pay period. To ensure that employees do not max out on comp time because of the standard 80-hour comp time cap established in Article 12.5, the comp time limit for this group of employees will be raised to 160 hours so long as the interim plan is in place.
- 4) Time Off. When employees take time off, they will only need to use enough accrued leave to reach 40 hours per week in paid status. If they are absent during their 36-hour week they will code 40 hours of accrued leave (annual, comp, or a combination). If they are absent during their long (48-hour) week, they will also code 40 hours of accrued leave for that week. Employees will never use more than 40 hours of accrued leave in a work week.

- 5) Holiday Credit. Employees will accrue holiday credit at the rate of .0538 hours per hour in paid status up to 40 hours/week, rather than at the rate of .051 hours per hour in paid status as stated in Article 31.A.1.d. An accrual rate of .051 times 2080 hours per year adds up to only 106 hours per year, not 112 as negotiated. Correcting the accrual rate to .0538 will allow employees to receive the negotiated number of holiday credit hours.

Transition Period

Employees who work their full schedule will earn four hours of comp time at time and a half each pay period, and six hours of comp time will be added to their accrual bank each pay period. They should therefore always have enough comp time available to cover the four hours of comp time taken they will code during the short (36-hour week) of each pay period. The exception is the very first pay period in which the new schedule is implemented. Because comp time may not be used during the same pay period that it is earned, any comp time taken that pay period must have been earned in a previous pay period. During the first pay period that the new schedule is implemented, any employee who does not already have at least four hours of comp time in their comp time back will have the following options during the short week of the pay period:

- 1) Code unpaid "E" time for four hours that week; or
- 2) Code other annual leave for four hours that week, if they have annual leave available to them; or
- 3) Work an additional four hours that week.

Termination of Interim Schedule

Should the Sheriff's Office determine that the schedule changes as described above no longer work operationally, it may provide the employees with notice in accordance with Article 31.A. and return the employees to a 5/8 schedule. Absent such notice, the above agreement shall continue for a one-year pilot period from April 15, 2023 through April 15, 2024, after which the pilot may be extended or terminated. If at any point during the pilot period or at any point thereafter the County develops the capability to implement a modified work period and the other provisions of Article 31.A.1.d., the pilot period will end, a schedule will be implemented in accordance with the provisions of Article 31.A.1.d.

For the Union

Veronica Velazquez
Veronica Velazquez
Internal Organizer

3/29/23

Date

For the County

Claire Schwartz
Claire Schwartz
Employee Relations Program Manager

3/29/23
Date