“Reflex” Overtime

Introduction

Facilities Management, like other departments on campus, has long had employees who work in certain disciplines in operating areas commit to working what is known as a "reflex" schedule, (hereafter referred to as "reflex") that may include scheduled overtime ad/or, to remain available for work in an “on call” status. Reflex overtime is used in large part to help ensure that Facilities Management’s ("Facilities") areas of responsibility are adequately staffed for the University’s business needs during times when it has few, if any, other employees scheduled for work. Therefore, employees on reflex are considered especially critical to the department’s operations.

An employee considered to be on reflex is the first employee utilized in the event the campus needs someone to respond to an unscheduled emergency, routine, or trade-related work; employees from each of the operating areas must report for reflex work as designated or scheduled.

In the past, employees have signed up for reflex assignments for the entire calendar year at a single point in time which assists in providing advance notice of overtime to employees and continuity of service to the University. After discussions, the parties have agreed to go forward with reflex scheduling as described below, notwithstanding the general provisions of Side Letter 1.

Definitions

(a) Substitutions. Identifying a replacement for an assigned period, without exchanging one assignment for another.
(b) Swapping. Identifying a replacement for an assigned period and evenly exchanging one scheduled assignment for another.
(c) Reflex period. The specific day or days the employee signs up for. A reflex period generally consists of a Saturday and Sunday (and adjacent holiday if applicable).
(d) “Most senior.” The individual with the earliest date of hire in the employee group.

Operational Elements

A. Initial Sign Up

1. The University will determine job classifications and the number of employees needed for reflex for any scheduled need.

2. The department will open sign up for reflex to all qualified employees (that is, employees in the disciplines needed) at a single point in the year for
the next 52-week period (initial implementation for the calendar year beginning 1/1/2005). The reflex period will be described for each sign-up opportunity. The department will provide at least general notice to employees when the sign up period is beginning.

3. Employees will have 30 days from the date the schedule of available assignments are posted to volunteer for the period(s) of interest. All employees, regardless of whether they appear on the Side Letter 1 “volunteer” list for the quarter at the time of the solicitation, will be considered under this process.

4. The most senior of these employees will have an opportunity to sign up for from zero to three reflex periods (based on the number of volunteers to cover those periods that require coverage). Eligible employees will sign/initial and date the choice(s) selected. After that determination is made, the next senior employee will have an opportunity to sign up for from zero to three reflex periods and so on until the least senior employee has had this opportunity. Additional rounds will follow until all periods have been covered or, volunteers do not select all available periods.

5. If any open reflex periods remain after all of these employees have had the opportunity to volunteer, the remaining open periods will be assigned. Management will determine the number of periods (or additional periods) employees must be assigned to distribute the work as evenly as practicable.

Those employees who have volunteered for the fewest number of reflex periods will be assigned first with the most senior of the employees being given first opportunity to select from the available open work periods. Questions of who will be given first opportunity at any point in this process will be determined in favor of the most senior employee. This process will continue until all periods have been covered for the 52-week period.

6. The final assignments for each of the employees will be given to the employee in writing.

B. Changes After Initial Sign Up and Failure to Report

1. Any employee who signs up for, or, is assigned to work a reflex period is expected to work that assignment personally and to report to their assignment on-time; in the case of unscheduled needs, employees are expected to report promptly after notification.

2. Reflex assignments may be “swapped” with the advance, written approval
of management. It is the responsibility of the employee seeking the “swap” to arrange a substitution acceptable to management and the substitute’s name and concurrence should be included in the request for a swap. Once a swap is approved, under the process described above, the primary responsibility for that reflex assignment becomes that of the substitute’s.

In the case of a personal emergency of a person assigned to the reflex period or other extraordinary circumstance, management, may, in their sole judgment waive the requirement of prior written approval of the swap. However, this will be permitted in limited circumstances only and should not routinely occur.

3. Employees who become unable to work their assigned reflex shift because of illness shall be required to provide appropriate medical documentation requirements to substantiate their absence from reflex assignment upon the employee’s return to work. Failure to provide such documentation will result in the absence being considered to be an “unexcused absence” and the employee will be subject to appropriate disciplinary action.

On any such occasions, an employee must notify Management as soon as possible that they are medically unable to work as expected, at least prior to the start of the work shift. The need to bring medical documentation because of absence due to illness on a reflex assignment may result in the need to consistently bring medical documentation for future absences due to illness, consistent with the provisions of the MOU.

4. Employees are not permitted to use any of their available “call in” allowances as it pertains to this reflex agreement.

5. As these assignments are considered to be critical to meeting the needs of the University, employees are advised that an employee’s failure to report as scheduled will prompt a thorough review of the circumstances and may result in disciplinary action, up to and including discharge, given the totality of the events and circumstances.

Recurring Large-Scale Events

The parties recognize that there are a discreet number of large-scale events which occur on campus each year which necessitate a significant number of employees in Facilities Management to work overtime. These are generally occurrences where the actual date of the event is set several months in advance; examples of such events are commencements (Spring and Winter) and Maryland Day. Notwithstanding the quarterly volunteer lists provided for in Side Letter 1
which would limit consideration of “volunteers” to only those who have signed up during that quarter, the parties have agreed as follows:

1. When the University has substantial advance notice of the actual date when it will have a need for overtime requiring a substantial number of employees, Management may post a sign-up sheet for employees to volunteer for this overtime assignment. This sign-up sheet may include sections where the need for certain employees are based on the need for particular skill sets/job classifications. For example, if the University had a particular need for Plumbers for the assignment in addition to general workers, it might have a “Plumbers” sign-up section.

2. Volunteers may come from any area of Facilities, however, if more volunteers than are necessary sign up for the overtime assignment, Management will first utilize volunteers from the operating area that would normally perform the work on a straight-time basis (“base area”); Management may then utilize others who have volunteered before ordering others from the base area. Management reserves the right to reject any volunteer from outside the base area where it believes the volunteer does not have the requisite skills or knowledge to perform the overtime work. Volunteers from outside the base area will be considered for the overtime in the order they signed up on the sheet (first to sign, first considered). It is understood that in these instances, volunteers may include contingent employees and employees excluded from the bargaining unit, however, they will be considered to be “outside the base area” volunteers.

3. When signing up for the overtime assignment, employees will be requested to designate whether they will be working the assignment for wages or compensatory time. However, if, in the week the large-scale event takes place the employee works other overtime, his/her choice of pay or compensatory time will be binding on this assignment based on current practice and the MOU.

4. The sign-up sheets will generally be closed not later than two (2) weeks before the large-scale event. Management will endeavor to post the date the volunteer list will close on the sign-up sheets actual sign up sheet.

5. Employees will receive a written confirmation that they will be working and the hours of duty.

6. Employees who become unable to work these large-scale assignments because of illness may be required to provide appropriate medical documentation requirements to substantiate their absence from the large-scale event upon the employee’s return to work. If such medical documentation will be required, the employee will be notified of the need
to provide documentation prior to the employee’s next regular work day. Failure to provide such documentation will result in the absence being considered to be an “unexcused absence” and the employee will be subject to appropriate disciplinary action.

On any such occasions where an employee cannot report as scheduled, an employee must notify Management as soon as possible that they are medically unable to work as expected, at least prior to the start of the work shift. The need to bring medical documentation because of absence due to illness on a large-scale event may result in the need to consistently bring medical documentation for absences due to illness, consistent with the provisions of the MOU.

7. Employees are not permitted to use any of their “call in” allowances as it pertains to these large-scale events.

8. After written confirmations are issued to employees as a result of the sign-up provisions of paragraphs 1-4 above, if it is subsequently determined that additional employees are needed for any given large-scale event, the overtime provisions of Side Letter 1 shall apply.

9. Even where an event may meet the definition of a “large-scale event” as described above, the University retains the right to decide to cover the event by reverting to the overtime provisions of Side Letter 1 and that decision is not considered “grievable.” However, if an event is designated as a “large-scale event,” the provisions of this section shall be followed.

Miscellaneous Overtime Issues

The following provisions concern overtime assignments which are not considered to be a “reflex” overtime situation or a “large-scale event” as described above.

1. For purposes of this section, the following definitions shall apply:
   (A) “Voluntary overtime” is considered an overtime assignment where employees are initially given the option to work or not work a specific assignment. Employees are offered such assignments pursuant to the provisions of Side Letter 1.

   (B) “Mandatory overtime” is any overtime which is being filled either because sufficient volunteers were not obtained or where there is no option to decline the work assignment. When mandatory overtime must be assigned, the assignment will be made from among all of the employees on the overtime roster (whether they have “volunteered” for overtime in that quarter or not) (in the base area, where applicable), in order of the employee with the most recent date of hire first.
“Emergency overtime” is where an assignment must be performed because of a critical need of the University, such as to protect life or property or to avoid the interruption of essential services (such as electricity, water/plumbing, or safe access to University facilities so that it may operate). This description is not intended to be all-inclusive but rather an indicator of areas of service.

2. Employees who call in sick for a voluntary or mandatory overtime assignment may be required to produce medical documentation of the need for their absence where there is either a reason to believe that there is an abuse or pattern of absence (or where an employee is already on a medical documentation requirement because of prior instances of absence). Employees required to provide medical documentation will be advised of the need for same prior to his/her return for the next regular workday (unless the employee is already on a requirement for medical documentation, in which case, specific notice need not be given). Absence due to illness or injury for an emergency overtime assignment, employees will normally be required to provide appropriate medical certification for their absence, regardless of their sick leave record. In any case, such medical documentation must be provided upon the employee’s return to his/her next regularly scheduled shift.

3. Failure to provide such documentation when directed will result in the absence being considered an “unexcused absence” and the employee will be subject to appropriate disciplinary action.

4. Whenever an employee cannot report for an overtime assignment as expected, employees must to notify Management as soon as possible that they will not arrive or work as expected, at least prior to the start of the work shift.

5. Except where an employee has been specifically advised at the time they are given the assignment that the overtime assignment is considered to be an “emergency,” an employee may be permitted to use an available “late call in” if one exists. In cases where the employee has been told that the assignment is an “emergency,” the use of late call ins will not be available.

6. Whether disciplinary action will be taken because of the employee’s absence will be determined on a case-by-case basis given the specific facts of the incident and employee’s record.

7. In cases of voluntary overtime where sufficient volunteers are not obtained from the volunteers for overtime, or prior to declaring overtime to be a “mandatory” assignment, the University shall have the option to use any other volunteers it deems qualified to perform the assignment. In such circumstances, it is understood that these volunteers may include other
bargaining unit volunteer not on the previously solicited volunteers list, contingent employees and employees excluded from the bargaining unit.