

**Q&A – Additional Hours of Work for APSA Employees  
Supplementary Information – January 2021**

This document acts as supplementary information to the Q&A and the Message to all APSA members and APSA supervisors circulated on August 20, 2020 regarding the University's requirement to align with *British Columbia Employment Standards Act (ESA)* and *Employment Standards Regulations*. The materials are attached for your reference.

The following addresses thematic questions received by Human Resources over the past several months. This information is in no way to replace or supersede the information contained in the aforementioned materials.

Thank you for your questions, and please continue to speak with your HR Business Partner for consultation and assistance.

**1. *How can I determine who is a Manager and who is not a Manager for the purposes of compensating additional hours of work per the ESA?***

A decision tree assessment tool is attached which can assist with the determination of whether a position is defined as Manager or not for the purposes of hours of work and overtime provisions under the Employment Standards Act. This tool can be used in association with the information provided August 20, 2020.

The assessment is for the sole purpose of meeting ESA overtime regulations; and is not intended for any other internal classification purposes (e.g.: job descriptions, titles, employment status etc.)

Please continue to work with your HR Business Partner to conduct the assessment, instructions on where this information is to be maintained, or if you need consultation and assistance.

Once all current positions are determined to hold either manager or non-manager status for ESA overtime application, the responsibility will reside with the HR Compensation team when review of new or revised positions takes place. Appropriate recording, reporting and system maintenance will take place.

**2. *Does supervision of staff include student staff, co-op students and seasonal or temporary employees?***

Supervision of human resources, per ESA definitions and regulations, requires an assessment of the total characterization of that person's responsibilities. The degree to which this supervision represents the principal employment responsibilities for the position needs to be assessed for the individual position, work situation and context.

Please speak with your HR Business Partner and in conjunction with the attached assessment tool.

**3. Are people who don't supervise staff or human resources, yet do manage budgets and other types of resources, considered to be a Manager per ESA?**

A conclusion about whether the principal employment responsibilities consist of supervising and/or directing employees, or other resources, depends on a total characterization of that person's responsibilities. The assessment tool and your HR Business Partner can assist to provide that individual and objective conclusion.

**4. Will the assessment as to a position being an APSA Manager or not for ESA overtime provisions be applied consistently across the University? There are many positions with similar job titles, job descriptions, and accountabilities across SFU.**

The test for the purposes of hours of work and overtime provisions under ESA requires an objective examination based on the individual position, work situation and context. The fact that a person's position title is classified as a Manager, or identified by other employees as one, does not of itself mean that the person is a Manager per the ESA definition and requirement for the associated overtime application.

Please turn to the assessment tool which provides for a consistent approach and objective assessment.

**5. Will there be a distinction made between overtime that is conducted on a regular basis and overtime that is worked for specific situations such as travel abroad, events, and peak business periods?**

Overtime should not be considered a regular occurrence or conducted on a regular basis.

Supervisors should continue to review workload with employees as often as is necessary to ensure that job objectives can normally be met and work assignments can normally be completed within APSA's standard hours of work. If it appears the employees in a unit are having difficulty meeting job objectives and completing work assignments within APSA's standard hours of work, the supervisor should take active steps, including collaborative discussions with their employees, to understand the reasons for the difficulties and to introduce appropriate remedial measures.

**6. Is there an overtime tracker that the University will provide to units?**

For units that request assistance with documenting overtime, please see your HR Business Partner to view a generic spreadsheet that may meet your unit's recording and documentation needs.

**7. When an employee has both banked overtime hours and vacation hours, which category should be used first?**

The employee can request either bank to utilize.

**8. Are "Temp overloads" still in effect?**

The University is currently reviewing Temporary Overload policies and procedures in association with ESA overtime regulations.

**9. In what circumstances is an Employment Standards Branch Averaging Agreement or Variance appropriate?**

Overtime averaging provisions, and variance agreements, are intended for situations in which employees are regularly scheduled to work a non-standard day. The overtime averaging provisions are not suited, however, to work schedules which are inconsistent or which feature random or irregular occurrence of overtime work. The ESA legislation does not contemplate flexible arrangements made in short spans of time to accommodate personal requests, travel arrangements, conferences and such. Any hours worked over 7.2 in a day triggers overtime regardless of the number of hours worked the following day.

The establishment of overtime banks, as outlined in the August 20, 2020 memorandum, can meet this need.

Please consult with your HR Business Partner for examination of appropriateness of an averaging agreement or variance through ESA.

**10. Can a supervisor shift an employee's hours between days to accommodate employee personal requests? For example, an employee requests to work 9.2 hours on a Monday to attend a dental appointment, and then work 5.2 hours on Tuesday. They still work 36 hours overall in that week.**

The legislative answer with respect to ESA adherence is that overtime is triggered after working 7.2 hours. The legislation does not contemplate flexible arrangements made in short spaces of time to accommodate personal requests. Longer term arrangements can be managed through time banks, or exploring tools such as ESA Averaging Agreements or Variances if appropriate.

**11. Are employees eligible for retroactive overtime?**

The University is currently reviewing this issue.

Chris Hatty  
Director, Employee and Labour Relations