

MEMORANDUM OF LAW

DATE: June 14, 1988

TO: Rich Snapper, Personnel Director
FROM: City Attorney
SUBJECT: Appointment to the Contractors State License Board

You have recently asked this office if time spent by an unclassified City employee sitting as a member of the Contractors State Licensing Board in his or her own capacity as a private citizen can be considered reimbursable City time or must the individual take leave while fulfilling such duties.

As you are aware, unclassified employees of The City of San Diego are salaried employees whose wages and benefits are calculated on a monthly basis. In addition, they are exempt from the Fair Labor Standards Act and are not eligible for overtime compensation. However, The City of San Diego has required members of the unclassified service to comply with the policies and procedures applicable to classified employees when requesting and reporting leaves of absence.

Index Code I-1 of the Personnel Manual states in paragraph B.:

1. By memorandum, January 24, 1952, the City Manager asked that all unclassified officers and employees conform to the standard procedure in requesting and recording leaves of absence.
2. On March 26, 1953, the City Attorney, City Auditor and Comptroller, the Personnel Director jointly issued instructions to all unclassified personnel to comply with regular payroll and leave procedures in reporting their own attendance and absence from duty.

Municipal Code section 22.1006, entitled "Leaves of Absence-Unclassified Service" also states:

Employees and officers of the unclassified service of The City of San Diego, shall have the same rights and benefits relative to leaves of absence as is provided the classified service out of the provisions of chapter II, article 3, division 11 of this code. (Added 1-13-59 by Ordinance 8039 N.S.)

It is traditional that minor deviations in an unclassified employee's schedule on a daily basis may be authorized by the appointing authority as long as the employee performs some service to The City of San Diego on the day in question and the total number of hours worked for The City of San Diego during the two-week pay period consists of at least 80 hours of service. This practice does not, however, authorize unclassified employees to be compensated on a daily basis when no service is performed for The City of San Diego during that day. Therefore, we believe that when an unclassified employee is absent from City employment for an entire work day the employee must take annual leave in order to be compensated for that day.

If you have any further questions in this regard, please feel free to contact me.

JOHN W. WITT, City Attorney

By

John M. Kaheny

Deputy City Attorney

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