

5.8 OVERTIME FOR NON-EXEMPT EMPLOYEES

All nonexempt employees must be appropriately compensated for any overtime worked. It is the University's policy that nonexempt employees who work in excess of 40 hours per week will receive compensatory time (comp time) in lieu of cash overtime. Acceptance of employment with the University as a nonexempt employee is an agreement to receive compensatory time in lieu of cash overtime. The University will neither condone nor tolerate actions which place the University at risk for violation of the laws and regulations governing overtime. Any supervisory employee, employee with authority for personnel matters, or other agent or officer of the University, with knowledge of any procedural or FLSA violation, must take immediate corrective action or report the facts so that corrective actions may be taken.

Definitions

Exempt Employees: Those employees not covered by the overtime provisions of FLSA and exempt from overtime/compensatory payment.

The exempt status of any individual position may change to nonexempt status if it is determined by the Human Resources Office that the assigned primary duties of the employee occupying that position are nonexempt duties. The determination of whether an employee is eligible for overtime (nonexempt) depends on the actual job duties and responsibilities assigned to that employee, and cannot be determined solely by an examination of the title or job family level associated with the employee's position.

When an audit of an exempt position results in a determination that the position's assigned primary duties and responsibilities are nonexempt, the supervisor must either change the assigned job duties to be consistent with the exempt status or contact Human Resources for assistance in determining the appropriate course of action.

Nonexempt Employees: Those employees covered by the overtime provisions of the FLSA and eligible for overtime compensation.

Work: Duties, activities, or tasks that are done in exchange for compensation.

Responsibilities and Guidelines

Nonexempt Employees' Responsibilities include the following:

- Accurately recording all time worked on time sheets;
- Requesting and receiving authorization from the supervisor before working any hours that would constitute overtime and complying with any supervisory directives regarding such approval or authorization;
- Ensure that no work is performed outside of the authorized hours;

- Employees who are on an uncompensated meal period must not perform any work activities during such a break and should remove themselves from work areas where it is foreseeable that their mealtime could be interrupted. All interruptions to the meal period or missed meal periods must be reported to the supervisor and appropriately recorded as work time; and
- Employees are not encouraged to report early or to remain after their shift, unless approved by the supervisor and in the pursuit of assigned job duties. If at the work location during non-working hours, employees are not to engage in any activity which would constitute work.

Supervisors' Responsibilities include the following:

- Administering the provisions of this procedure in a manner which best serves the interests of the University and actively managing overtime expenditures, including ensuring the usage of accrued comp time;
- Making work week (period) adjustments, whenever possible, in order to control overtime expenses;
- Informing employees of the process for requesting approval to work overtime; and
- Reviewing, evaluation, and monitoring the use of overtime and compliance with the FLSA to ensure that:
 - Appropriate work hours are scheduled and recorded on time sheets;
 - No work is performed outside the assigned work schedule unless specifically authorized; and
 - Assigned job duties are consistent with the exempt or nonexempt status of the employee's position.

Human Resources Office Responsibilities include the following:

- Ensuring that overtime notification materials published by the U.S. Department of Labor Wage and Hour Division are appropriately posted at each work location; and
- Assist supervisors in calculating overtime and compensatory time for time management and record keeping purposes.

Procedures

Overtime Compensation for Nonexempt Employees

- An employee may not work overtime unless prior approval or authorization is received from the supervisor. Overtime is considered authorized, and must be compensated, when:
 - The supervisor specifically approves or authorized the overtime;
 - The supervisor accepts work done during the overtime hours that were not specifically approved or authorized; or
 - The supervisor has knowledge that the employee is working during non-authorized overtime hours and does not stop the employee from working.
- Compensation for overtime does not preclude the supervisor from disciplining an employee for working overtime without receiving prior authorization.

Work-week Adjustments

A work week adjustment is a change in an employee's regularly scheduled work hours and may be made before or after the extra work is performed and in the consideration of the needs of the department or University. For example, if an employee who normally works 8 a.m. to 5 p.m. Monday through Friday has worked 40 hours by 1 p.m. Friday, the supervisor may excuse the employee from work at 1 p.m. on the Friday of the workweek.

Supervisors shall utilize workweek adjustments whenever possible to avoid overtime work by employees, and, where workweek adjustments are not possible, to grant employees compensatory time for overtime hours worked.

On-call Time for Nonexempt Employees

University employees who are "on-call" are not considered to be on work time and therefore will not be subject to any restriction on movement that is considered appropriate for work time.

Compensatory (work) and non-compensatory (non-work) on-call time are defined below. Except in certain rare circumstances, supervisors should ensure that on-call instructions to employees conform to the non-compensatory definition.

Compensatory On-Call Time (Work) is considered work time when the employee's freedom of movement is so restricted as to prevent the employee from using the time for personal purposes. An employee's freedom of movement is considered restrictive if the employee must or is required to remain on the employer's premises or stay at home or other fixed location waiting for a call to return to work.

Non-compensatory On-Call Time (Non-Work) is not considered work time if the employee can come and go freely and it is not so restrictive as to prevent the employee from using the time for personal purposes. An employee's freedom of movement is not considered restricted if the employee is required to leave a telephone number where the employee can be reached but can leave that location, required to carry a mobile device; or required to refrain from consuming alcohol during the on-call time.

Compensatory Time and Rate of Accrual

When compensatory time is earned, it shall be at the rate of 1.5 hours for every hour over 40 hours worked per week. Paid leave and holidays are not to be used to calculate overtime compensation. Accrued compensatory time must be exhausted before taking annual leave. Semi-annual payments of unused compensatory time will be made in January and July for balances remaining at the end of December and June, respectively. Payment will be at the regular pay rate for the period in which it was earned. Employees must request and receive approval from their supervisor prior to using any accrued compensatory time.

Work Breaks

At the discretion of the supervisor, work breaks may be allowed but are not required. The work break should not interfere with the proper performance of the job responsibilities of the department or University. A work break cannot be longer than 15 minutes twice per day from the point of cessation of labor to resumption of labor. Breaks should be considered a privilege, rather than a right. Break time cannot be accumulated, added to lunch periods, or otherwise used to shorten the workday or workweek.

Breaks are considered time worked; therefore, employees must remain at the worksite and be available to work. If the supervisor determines there is a critical need for the employee to perform work duties, breaks may be interrupted. There is no provision to make up or reschedule interrupted breaks. Supervisors are responsible for monitoring an employee's 15-minute time limit on breaks. Employees may lose their break privileges if break time is abused.

Nonexempt Staff as Volunteers

Employees may be permitted to donate time to the University in a volunteer capacity provided the volunteer activity does not present a conflict of interest with the primary mission of their paid positions or a potential for additional work time resulting in payment of overtime. No employees may serve as a volunteer in any capacity where the volunteer role or activity resembles the employee's regularly assigned job duties if those duties are nonexempt; and whenever possible, staff volunteer's assignments should be made at locations other than the place of employment.

Exceptions

Payment of overtime that is the result of a finding of an audit, investigation, or external order is not subject to these procedures.

The President, or authorized designee, may permit cash payment for overtime work in special circumstances.

Record Keeping and Reporting

To ensure compliance with FLSA, all hours worked and leave taken will be recorded on a daily basis in accordance with applicable University policy. Each department head/supervisor is responsible for maintaining adequate overtime records for his or her employees. A record should be maintained of each employee's compensatory time activity documented on an Employee Monthly Time and Leave Report and submitted to the Employment and Benefits Office on the last day of each calendar month.