

Fair Labor Standards Act - Compensatory Leave - Overtime

Summary/Purpose: The University is covered by the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA), as amended. Minimum wage, how to use and maintain the Departmental Time Record, and how performing additional work for another department is regulated are explained. The general procedures are given for earning Compensatory Leave when a non-exempt employee works overtime.

Minimum Wage

The minimum wage paid to University employees is \$10.75 per hour. Student employees of the University must be paid at least the federal minimum wage rate.

Overtime Pay

The FLSA does not limit the number of hours that an employee can work, but simply requires overtime be paid to qualifying employees for any hours worked over forty (40) in a standard workweek at the rate of one and one-half (1.5) times the employee's regular hourly rate of pay. The University's standard workweek begins at 12:01 a.m. on Monday and runs through midnight on Sunday. To ensure consistent time and attendance reporting, time for employees paid on an hourly basis should be recorded in quarter of an hour (.25) increments (7 minutes or less is rounded down and 8 minutes or more is rounded up).

Any hours worked over forty (40) in a standard workweek will include holidays, as defined by the Official Holidays policy (HRO.PC.400.060), but will not include Major Medical and Personal Leave, Jury Duty, or Administrative Leave. The University will count authorized enrollment in coursework (attending lecture or lab) by an employee during working hours as hours worked and will not deduct this time from hours worked in the standard workweek.

Employees may be required to work overtime when requested by the employing department. All non-exempt, or overtime eligible, employees must have prior notice and approval from his/her supervisor before any overtime work is performed. Supervisors should provide employees with as much advanced notice as possible and should assign and distribute overtime among all eligible employees. Please note that under the FLSA, overtime work performed by a non-exempt employee, whether approved by the supervisor or not, must be compensated as overtime. If an employee works overtime without permission, the department is still obligated to compensate the employee at an overtime rate. The employee may be subject to disciplinary action up to and including termination for failing to adhere to policy.

Occasionally full-time University employees with one department will be asked to perform additional work for another University department. Since all funds expended through the University are subject to the overtime regulations, this practice is not allowed without explicit approval as it may cause overtime to be paid to the employee involved.

Under the FLSA, certain positions are considered exempt from the overtime requirement. The Department of Human Resources determines which positions meet the exemption standards of

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the Act. Exempt employees are expected to work the hours required to successfully perform the duties of his/her job and do not qualify for overtime compensation set forth by the FLSA.

Compensatory Leave

The FLSA allows flexibility for public employees regarding overtime compensation. The Act authorizes a public agency to provide compensatory time off in lieu of monetary overtime compensation, at a rate not less than one and one-half (1.5) hours of compensatory time for each hour of overtime worked. Compensatory Leave is the University's preferred means of overtime compensation, however each department has the discretion to determine its employee's means of overtime compensation; either compensatory leave or overtime pay.

An employee and his/her supervisor must arrive at an agreement or understanding that compensatory time will be granted in lieu of monetary compensation prior to the performance of overtime work. This agreement is not required to be in writing, but a record of the compensatory time must be kept via the University's payroll system.

An employee who has accrued Compensatory Leave and requests use of the time must be permitted to use the time off within a reasonable period after making the request if it does not unduly disrupt the operations of the department. Compensatory Leave must be earned before it can be used and must be used prior to the use of accrued Personal Leave.

The maximum amount of Compensatory Leave that an employee may accrue is 240 hours. Once an employee has reached the maximum accrual amount of Compensatory Leave, he/she must be compensated at the employee's overtime rate of pay for any hours worked over forty (40) in a regular workweek.

If an employee transfers to another department within the University or changes from a non-exempt to an exempt position, the employee must either use or be paid for all accrued compensatory time before the change in position occurs. Additionally, the employee's transfer must occur at the beginning of a payroll period since an employee may not be an exempt and non-exempt employee during the same pay period.

Upon termination, employees must be paid for unused Compensatory Leave. The rate of pay will be the final regular rate received by the employee, or an average of the employee's regular rate for the last three years of employment, whichever is greater.

Recordkeeping Requirements

Hours worked and leave taken by non-exempt employees must be recorded as described in the Departmental Time Record Policy. This record must be maintained on all non-exempt employees and signed by the employee and department head or supervisor upon completion.

Forms UM4/HR12 must be retained in the department office for a minimum period of seven (7) years. The department copy is the official record of the University and must be readily available

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for audit from state or federal agencies. Student employees are also covered by these regulations therefore time records must be kept on them.