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| Policies of the University of North Texas Health Science Center | Chapter 05 Human Resources |
| 05.611 Compensatory Leave and Overtime | |

Policy Statement.

It is the policy of the University of North Texas Health Science Center at Fort Worth to arrange its work schedule in such a manner that employees are not required to work beyond their normal workweek. However, when operational necessities require an employee to work overtime, they will be compensated in accordance with both the Federal Fair Labor Standards Act (FLSA) and the state Government Code.

Application of Policy.

Regular Staff

Definitions.

1. Non-exempt Position: Is a position covered by the provisions of the FLSA and the Appropriations Act. The FLSA status for non-faculty positions is published in the Personnel Pay Plan.
2. Exempt Position: Is a position which is exempt from the provisions of the FLSA. Exempt positions must meet certain conditions relating to their duties, responsibilities and salary. FLSA status for classified positions is published in the Personnel Pay Plan.
3. Hours of Work: Those hours spent by an employee that are primarily for the benefit of the health science center and that are controlled or directed by the health science center. Such time includes required "on duty" time and waiting time or "idle" time that is primarily for the health science center's benefit and under its control. See Section 7 of this policy for additional details.
4. FLSA Overtime: As defined by the FLSA, overtime occurs when a non-exempt employee works in excess of forty (40) hours in a workweek. Paid leave or holidays taken are not counted as hours worked in determining overtime hours under FLSA.
5. State Overtime: As defined by the Appropriations Act overtime occurs when an employee works no more than forty (40) hours in a workweek BUT time exceeds forty (40) hours because of paid leave or holidays.
6. Travel Time: Time spent in traveling on official business is considered hours worked. This includes time spent outside of normal working hours spent in travel to and from destination.

7. **Training Time:** Time spent in training, either during regular working hours or after hours is considered hours of work if participation in the training is directed or approved by the supervisor, and if its purpose is to improve performance.
8. **Adjusting Grievances:** A reasonable amount of time spent in adjusting grievances between an employee and the health science center is considered as hours worked.
9. **On-Call Status:** If a staff member is restricted to home or to duty post and his/her activities are substantially limited so that the time cannot be used effectively for his/ her purpose, the staff member is considered "on call" and the time is considered hours worked. But if the staff must merely leave a phone number or carry an electronic device so that he/she can be reached, and can arrange for someone else to do the work, such time is not considered hours worked.

Procedures and Responsibilities.

Procedure / Duty

Responsible Party

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| <ol style="list-style-type: none"> 1. Approval of Overtime: All overtime worked must be approved in advance by the department official who has the designated authority to approve overtime worked. The administrative official in the department may arrange work schedules in order to prevent overtime from occurring. | Department Official |
| <ol style="list-style-type: none"> 2. Compensation of Non-exempt Employees for Overtime:¹ A non-exempt employee shall be compensated for overtime worked in accordance with the FLSA and Appropriations Act which provides that: <ol style="list-style-type: none"> 2.01. Salaried non-exempt employees who work in excess of their forty (40) hour workweek (FLSA overtime) will be granted compensatory time at the rate of one and one-half (1.5) hours off for each hour of overtime. 2.02. Salaried non-exempt employees who do not work more than forty (40) hours in a workweek BUT their time exceeds forty (40) hours in a work week because of paid leave or holidays (state overtime) will be granted compensatory time at a rate of one-for-one hour off for each hour of overtime. Compensatory time must be taken within twelve (12) months of the date it is accrued. 2.03. Salaried non-exempt employees who work in excess of forty (40) hours in a workweek (FLSA overtime) AND time exceeds total number of hours worked because of paid leave or holidays (State overtime) will be granted compensatory time | Employee Department Official |

at the rate of one and one-half (1.5) hours off for each hour of FLSA overtime and granted compensatory time on an hour for hour basis for hours in excess of their normal workweek but less than forty (40) during the workweek excluding FLSA hours.

- 2.04. At the discretion of the health science center, in cases where granting compensatory time off is impractical, the salaried non-exempt employee will be paid for the overtime. They may be paid at the rate of one and one-half their regular rate of pay for each hour of FLSA overtime worked in excess of forty hours in a workweek. They may be paid at their regular rate of pay for each hour of work in excess of their normal workweek but less than forty hours. Prior approval from the Vice President for Fiscal Affairs is required for any payment of overtime.
 - 2.05. Each salaried non-exempt employee approved to receive compensatory time may accumulate FLSA overtime credit of not more than 240 hours. Non-exempt employees must be paid for FLSA over time worked in excess of this limit. Exceptions: employees engaged in a public safety activity, an emergency response activity or a seasonal activity. These employees may accumulate not more than 480 hours and must be paid for FLSA overtime worked in excess of this limit.
 - 2.06. Compensatory time accrued in a salaried non-exempt position for FLSA overtime worked must be paid upon termination or if not taken within twelve months from the date of accrual.
 - 2.07. Hourly non-exempt employees shall be paid for all hours worked during the week. Hourly non-exempt employees who work in excess of a forty (40) hour workweek (FLSA overtime) will be paid at the rate of one and one-half their hourly rate for each hour worked in excess of 40.
3. **Compensation of Exempt Employees for Overtime:** An exempt employee is not subject to the provisions of the FLSA. Employee/
Department
Official
- 3.01. Exempt employees will be granted alternate time off at a rate not to exceed equivalent time (one for one) for time worked on an official health science center holiday. State compensatory time off earned must be taken during the 12-month period following the holiday worked. An exempt

employee is not entitled to be paid for unused compensatory time.

3.02. Subject to the exceptions provided below, an employee who is exempt as an executive, professional, or administrative employee under 29 U.S.C. Sec. 213(a)(1) (FLSA) shall receive full salary for any week in which work is performed without regard to the days and number of hours worked. This is also subject to the general rule that an employee need not be paid for any workweek in which the employee performs no work.

- (1) Deductions may be made when the employee absences himself/herself from work for a full day or more for personal reasons, other than sickness or accident. However deductions may not be made for absences caused by jury duty, attendance as a witness at a judicial action (see policy number 05.806), or temporary military leave (see policy number 05.609).

Deductions may also be made for absences of a day or more occasioned by sickness or disability (including workers' compensation accidents) if the deduction is made after exhaustion of paid sick leave.

- (3) Deductions may also be made for penalties imposed for infractions of significant safety rules relating to prevention of serious danger to the workplace or other employees.
- (4) Deductions from pay for unpaid disciplinary suspensions of one or more full days for infractions of workplace conduct rules.
- (5) An employer is not required to pay the full salary in the initial or terminal week of employment.
- (6) An employer is not required to pay the full salary in any week or portion of a week in which an exempt employee takes unpaid leave under the Family and Medical Leave Act.

3.03. Further, in accordance with the special provisions applicable to executive, professional or administrative employees of public agencies set forth in CRF, Part 541, Section 541.5d, an employee's pay may be reduced for absences for personal reasons or because of illness or injury of less than one work day when accrued leave is not used by the employee because:

- (1) Permission for its use has not been sought or has been sought and denied;
- (2) Accrued leave has been exhausted; or
- (3) The employee chooses to use leave without pay.

In addition, in accordance with 541.5d, deductions from the pay of an executive, professional or administrative employee for absences due to budget-required furlough shall not disqualify the employee from being paid "on a salaried basis" except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.²

4. **Other time considered as hours worked:** Travel time, training time, on call time and other time spent in the service of the health science center is considered as hours worked. Employee Department Official
5. No employee, whether or not subject to FLSA, shall accrue state compensatory time during any week unless the combination of paid leave and hours worked exceeds 40 hours. Employee Department Official
6. No employee, whether or not subject to FLSA, shall accrue state compensatory time for work conducted at any location other than the employee's regular place of employment or assigned duty point. In no event shall an employee's personal residence be deemed to be that employee's regular place of business or duty point when determining state compensatory time.³ Employee Department Official
7. **General:** Employee Department Official
 - 7.01. Agencies paying overtime shall maintain a monthly record of overtime paid that will identify the number of employees paid for overtime and the total overtime payments for the month. At the end of each fiscal year each agency shall file a report with the Governor's Budget and Planning Office and the Legislative Budget showing, by month, the number of

employees paid overtime and the total overtime payments during the fiscal year.

- 7.02. Compensation for hours worked on a holiday will be governed by the Appropriations Act. See Policy 6.04
- 7.03. Department heads should encourage and/or permit their staff to take their compensatory time as soon after it is earned as possible. The use of compensatory time must be scheduled so as not to disrupt the work in the department.
- 7.04. Vacation and sick leave credits continue to accrue during the use of compensatory time.
- 7.05. Compensatory time taken must be properly recorded on the official health science center time records.
- 7.06. Unused non-FLSA compensatory time may not be paid to the estate of a deceased employee. This applies both to exempt and non-exempt employees.
- 7.07. If an employee who wishes to use accrued compensatory time that is subject to lapsing submits a written request for permission to use the accrued compensatory time to their department head not later than the 90th day before the date on which the accrued compensatory time will lapse, the department head shall either (1) approve in writing the employee's request; or (2) provide the employee with an alternative date on which the employee may use compensatory time. The employee may request permission to use the accrued compensatory time within 90 days of the date on which it will lapse, and the department head is encouraged to reasonably accommodate the employee's use of the accrued compensatory time before it lapses.⁴
- 7.08. When an employee changes FLSA status from non-exempt to exempt, they shall be paid for all remaining accumulated FLSA (1.5) compensatory time. Any state (1.0) compensatory time shall be retained to be used until such time is either expended or has lapsed under the provisions of this policy.
- 7.09. The health science center shall notify eligible employee annually of the policy on compensatory time.⁵

- 7.10 A staff member should use or be paid for all accrued compensatory leave before transferring from one department in the health science center to another. Exceptions may be made if the receiving department is willing to accept the transfer of the individual's accrued compensatory leave. NOTE: If a non-exempt staff member is not able to use all accrued FLSA compensatory leave prior to transferring from one health science center department to another, and the receiving department will not accept the compensatory leave, the releasing department shall pay the employee for their balance. A promotion or transfer cannot be denied to an employee solely on the basis of their compensatory time accrual.
- 7.11 Compensatory leave accruals cannot be transferred from one State agency to another. (Attorney General Opinion No. H-883, September 29, 1976.)
- 7.12 The health science center may require non-exempt employees who request leave to exhaust their FLSA (1.5) compensatory time balances before using annual leave. (Christensen v. Harris County, 529 U.S. 576, 2000)

References and Cross-references.

¹ Texas Government Code, § 659

² Ibid.

³ Ibid.

⁴ Ibid.

⁵ Ibid

Forms and Tools.

None

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Effective: 9/1/2006

Revised: