

OVERTIME AND COMPENSATORY TIME FOR NON-EXEMPT STAFF EMPLOYEES

1. PURPOSE

1.1 The Fair Labor Standards Act (FLSA) states federal legal provisions covering employee classification and working hours. UHCL, as an agency of the State of Texas, complies with all applicable provisions of the FLSA.

1.2 This policy and its related procedure state UHCL regulations with regard to employee classification, overtime work, and compensation for overtime work. These regulations are consistent with the FLSA and with provisions of the State of Texas General Appropriations Act.

2. DEFINITIONS

2.1 Employee. An employee of UHCL is any individual for whom employment records are maintained through the UHCL segment of the UHS automated personnel and payroll system, and who is paid through normal payroll procedures.

2.2 Non-exempt employee. A non-exempt employee is one occupying a position classified by the UHCL Office of Human Resources as subject to the overtime provisions of FLSA.

2.3 Exempt employee. An exempt employee is one occupying a position classified by the UHCL Office of Human Resources as not subject to the overtime provisions of the FLSA. Exempt status is determined by review of job content, using tests set forth by the FLSA. As defined by the FLSA, this category includes executives, administrative, which includes faculty, and managerial employees, and professional employees.

2.4 Standard workweek. The standard workweek for the University of Houston System is the period beginning at 12:01 AM on Wednesday and extending through the seven-day period ending at midnight the following Tuesday. For purposes of computing overtime or compensatory time, each workweek stands alone.

2.5 Non-exempt pay period. The pay period for non-exempt employees is biweekly and is a period of two consecutive workweeks, with certain exceptions as provided by the FLSA, in accordance with the schedule published by the UHS Payroll Department at the beginning of each fiscal year.

2.6 Exempt pay period. The pay period for exempt employees is monthly, beginning on the first day of the month and ending on the last day of the month.

2.7 Regular hourly rate. For the purpose of calculating overtime for non-exempt employees, the hourly rate consists of the total of the following items:

- a. The rate per hour as recorded in the automated personnel/payroll system;
- b. Longevity pay (prorated hourly) for all eligible employees;
- c. Shift differential pay for eligible employees (prorated hourly);

- d. Hazardous duty pay for commissioned police officers (prorated hourly); and
- e. Housing emoluments for eligible employees (prorated hourly).

The State's contributions for social security, retirement, and insurance benefits are not included in the calculation of the regular hourly rate.

2.8 Hours worked. A non-exempt employee may work as many hours as agreed upon by the employee and the supervisor, provided overtime compensation is provided for hours worked in excess of 40 hours already worked in a workweek. Work which is not requested by the supervisor but which is permitted must be counted as hours worked. Vacation, holidays, sick leave, and other approved leaves of absence are not counted as worked for the purpose of calculating time.

2.9 Overtime compensation. Compensation may be provided through pay at the regular hourly rate, the overtime rate, or through provision of compensatory time off from work as described elsewhere in this policy and procedures document.

2.10 Straight time overtime (also referred to as State overtime). Overtime earned at the regular hourly rate, rather than at the 1-1/2 x hourly rate. Straight time overtime usually results from an employee working extra hours during a workweek in which the employee also takes some form of leave.

3. Policy

3.1 It is the policy of UHCL to plan, organize, and schedule its activities so that overtime work is held to only, that which is absolutely necessary. In unavoidable circumstances, such as emergencies or peak workload periods, non-exempt employees will be compensated for overtime work in accordance with this policy and its related procedures. In such circumstances, managers and supervisors are responsible for planning such staffing as necessary to minimize overtime work.

3.2 All overtime work will be authorized in advance by departmental managers and directors. Employees are not authorized to make unilateral decisions to work overtime. Working unauthorized overtime may subject the employee to disciplinary action up to and including termination of employment.

3.3 If an employee undertakes, on an occasional or sporadic basis, and solely at the employee's option, part-time employment within the University of Houston System which is in a substantially different capacity from the employee's regular work, the hours worked in the additional part-time job will be excluded in assessing hours worked for overtime purposes. Examples of such substantially different sporadic employment are: officiating at recreation and sports events; taking of tickets; security for special events; or food and beverage sales at special events. All other hours worked within the University of Houston System are to be combined for the purpose of calculating overtime work and compensation.

3.4 A person holding a full-time exempt position with the University of Houston System who, on a continuing basis, works extra hours in a non-exempt position within the UH System will be eligible for overtime compensation if the following criteria are met:

- a. For exempt employees earning less than \$250/week, if more than 20 percent of the total hours worked in the workweek is of a non-exempt character, or
- b. For exempt employees earning \$250/week or more, if the primary duties performed that week are nonexempt in nature. Primary is defined as "more than 50 percent".

3.5 The overtime rate of non-exempt employees who work at two or more non-exempt jobs in the same workweek is to be determined in accordance with the provisions of Section 4 of this policy and procedures document.

3.6 It is the responsibility of all supervisors involved to monitor work hours of employees under their immediate supervision and agree on the method of compensation and reporting hours worked on time sheets. The supervisor who signs the employee's time sheet certifies by signature that hours worked are reported and coded correctly.

3.7 In the event of an investigation by the U.S. Department of Labor Wage and Hour Division, an individual agency participating in a dual employment relationship can be held liable for all hours worked by an employee for all components of the UH System and for all other state agencies.

3.8 No aspect of this policy and its related procedures shall be used to discriminate against any individual or group of employees because of the employee's race, color, sex, religion, national origin, disability, age, veteran status, genetic information or sexual orientation, or as retaliation for filing or assisting with a grievance or complaint or exercising entitlement to free speech.

3.9 An employee who believes that any aspect of this policy is being used as prohibited discrimination (see Non-Discrimination Policy) or retaliation may file a complaint through the Office of Human Resources under the UHCL grievance policy and procedures for staff employees.

4. POLICY PROVISIONS

4.1 Compensation for overtime work - nonexempt employees.

4.1.1 Non-exempt employees are subject to the overtime provisions of the FLSA. Compensation for all hours worked in excess of 40 hours in the standard workweek shall be given either:

- a. By requiring the employee to take compensatory time off during the 12-month period following the end of the work week in which the overtime work occurred at the rate of 1-1/2 hours for each hour of overtime worked. An employee may not accrue more than 240 total hours of compensatory time for overtime hours worked. Any compensatory time not taken at the end of the 12-month period following the end of the workweek in which the overtime work occurred, or any compensatory time in excess of the 240 hour maximum allowed, must be paid at the rate for which the employee is eligible when the payment is processed. The UH System and its components have the option to pay off accrued compensatory time at any time.
- b. At the discretion of the department head, when granting compensatory time off is impractical, pay may be granted for overtime work at a rate equal to 1-1/2 times the employee's regular hourly rate. Such compensation must be provided within the same pay period that the overtime is worked.
- c. A non-exempt employee who performs two or more different kinds of work, involving two or more regular hourly rates during a single workweek, will be paid 1-1/2 times the regular hourly rate established for the work performed that resulted in the overtime. Such payments require the supervisor to obtain prior written agreement from the employee.
- d. Paid leave and/or holidays taken are not counted as hours worked in determining overtime hours described in 4.1.1.a. Only the hours actually worked during a workweek are counted.

4.1.2 When a non-exempt employee has not worked more than 40 hours in a workweek, but the total of hours worked and paid leave and/or paid holidays exceeds 40 hours, the employee may be compensated for the excess hours over 40 hours either;

- a. By allowing the employee to take, on an hour-for-hour basis, compensatory time off for the hours in excess of 40. Such hours must be taken within the 12-month period following the end of the

workweek in which the excess hours occurred or the hours will be forfeited. The employee may not be paid for unused balances for such hours upon transfer or termination.

- b. By paying for the hours in excess of 40 on an hour-for-hour basis at the employee's hourly pay rate, excluding the additional compensatory factors cited in Section 2.7 of this document. Such compensation must be provided within the same pay period that the excess hours are worked.

4.1.3 All accrued compensatory time must be cleared before an employee transfers to a new department, unless the receiving department agrees to accept liability for the employee's compensatory time by written agreement.

4.1.4 Compensation for overtime work may not be waived by the employee.

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