HRM-046

Overtime Management for Non-Exempt Employees

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Status Final

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Policy Type University

Contact Office Total Rewards

Oversight Executive
Vice President and Chief Human Resources Officer

Applies To Academic Division and the College at Wise.

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Reason for Policy

The University has established requirements to provide clarity on overtime pay practices and management's responsibility for cost-effective overtime management in accordance with the Fair Labor Standards Act (29 U.S.C. § 201, et. seq. and regulations 29 CFR § 500 et. seq.).

Definition of Terms

Compensatory Leave

Description

Managerial approved paid time off for an eligible employee having worked additional hours in a workweek, for example, an official office closing day, a holiday, or a scheduled day off; or when a holiday falls on an employee's scheduled day off.

Exempt Employee

Description

An employee who is not subject to the minimum wage and overtime requirements of the Fair Labor Standards Act (FLSA) based on salary and duties performed. Exempt employees receive an annual salary for work performed until the duties of their job are complete, without expectation of pay for extended hours.

Fair Labor Standards Act (FLSA)

Description

Federal law establishing overtime pay, minimum wage and child labor requirements affecting full-time and part-time employees. Overtime pay at a rate of not less than one and one-half times the regular rate of pay is required after 40 hours of work in a workweek for those employees covered by the Act (non-exempt).

Hours Worked

Description

The Fair Labor Standards Act currently defines “hours worked” as “all time spent in physical or mental exertion controlled or required by the employer and pursued necessarily and primarily for the benefit of the employer or his business.” Hours worked include all time the employee in a non-exempt position is performing work for the employer. Paid time off, paid holidays, and other University special paid event times do not qualify as “hours worked.”

Human Resources Management System (HRMS)

Description

The current human resources management system or human resources information system used for tracking and maintaining an electronic record of employee time and attendance, leave, benefits administration, pay details, performance management, and related human resources documentation.

Non–Exempt Employee

Description

An employee who is subject to the minimum wage and overtime requirements of the Fair Labor Standards Act based on duties performed for time worked and recorded. Non-exempt employees are compensated at a rate of one and one-half times the employee's regular rate of pay for time worked in excess of 40 in a workweek.

Overtime

Description Time worked by non-exempt employees that exceeds 40 hours in a workweek.

Scheduled Workweek

Description

An employee's scheduled workweek includes the hours of the day and the days of the week the employee is regularly scheduled to work.

Special Pay

Description

Payments that apply to specific positions designed to address unique needs of the University (e.g., shift differential). Special pay is not included as part of the employee's base pay.

Staff Wage Employee

Description

A staff employee who is hired to perform a short-term work assignment and is ineligible for leave or other benefits, except for pre- and post-tax savings plans, and the Wage Health Plan when requisite criteria are met. These employees are not covered by the Virginia Personnel Act and may be compensated in one of two ways:

1. **Hourly:** The terms and conditions of employment stipulate an hourly rate of pay rather than a fixed salary and paid on an hourly basis for actual hours worked. Positions paid on an hourly basis are, in most cases, non-exempt.
2. **Period Activity Pay (PAP):** The pay structure used to pay employees a lump-sum over a period of time for fixed-term activities. It is administered outside of the formal compensation package. The lump sum payment will be equally distributed over the pay cycles included in the payment time frame.

Standard Workweek

Description

The University standard workweek (for payroll purposes) is seven consecutive days commencing at 12:01 a.m. Monday and ending at 12:00 midnight the following Sunday.

Straight-Time Pay

Description

The total earnings of an employee for time worked and authorized paid time off in a service week (pay period) excluding overtime, special, or premium pay. Straight-time pay is calculated based upon the employee's hourly rate of pay.

Policy Statement

The University complies with the Fair Labor Standards Act (FLSA) by providing time and a half overtime payment or overtime leave to non-exempt staff who physically work over 40 hours in a standard workweek. This includes University staff, classified staff, and wage employees who are non-exempt. The manager has discretion as to compensating with overtime payment or overtime leave and should communicate this decision to the employee in advance. Exempt employees are excluded from the overtime provisions of FLSA. Managers are encouraged to use short-term wage employees (refer to policy HRM-029: Managing Staff Wage Employment) and schedule adjustments to limit the usage of overtime. Overtime payment is to be used primarily for

emergency or temporary situations.

Non-exempt staff with fewer than 40 hours worked will receive straight time pay or compensatory leave (referred to as “comp special” in the human resources management system [HRMS]) but will not receive time and a half or overtime leave.

Non-exempt staff members are provided overtime compensation for all hours worked in excess of 40 hours in a standard workweek at either one and one-half times the staff member's regular rate of pay or with overtime leave (one and one-half leave hours for each hour worked in excess of 40).

Non-exempt employees who independently work overtime, for example, working through meal breaks or beyond the scheduled workweek, must be paid for time worked but may be subject to discipline for not seeking prior approval.

Under the state government exemption in FLSA, managers have the option of providing overtime leave in place of cash. Overtime leave is the proportional accrual of one and one-half leave hours for time worked after working 40 hours in a workweek. Employees consent to be compensated with overtime leave in lieu of overtime cash, or a combination thereof, as part of the terms and conditions of their employment. Accrued overtime leave does not expire.

1. **Special Pay:**
   Special pay may be used when there is a business need to compensate non-exempt staff for shift differentials, working conditions, and other factors. There are four types of special pay relevant to overtime management:

   a. **Call Back Rate:** A management option of payment with a guaranteed minimum number of hours provided to employees who must return to work between regularly scheduled shifts.
   b. **On-Call (Standby) Pay:** A management option of payment for time that employees are *waiting to be engaged* - where the employee may engage in personal business while remaining (1) available to work; and (2) in a capacity that is fit for duty should they need to respond to agency business. In accordance with FLSA, an employee who is required to remain on-call on the employer's premises is working while "on-call." An employee who is required to remain on-call at home, or who is allowed to leave a message where they can be reached, is not working (in most cases) while on-call. Additional constraints on the employee's freedom could require this time to be compensated. Departments may choose to use on-call pay to maintain customer service levels and critical business operations.
   c. **Shift Differential:** A management option of applying a premium to the hourly rate for employees working difficult-to-fill shifts intended to be utilized by management for ongoing staffing needs and not as special or one-off occurrences.
   d. **Working Conditions:** A management option of applying a premium to the hourly rate for employees working in hazardous conditions.

   Special pay is not required by the Fair Labor Standards Act.

2. **Other Forms of Overtime Compensation:**
   In those instances where a non-exempt employee works beyond the required hours in a scheduled workweek where no more than 40 hours are worked, management may use:
   a. **Straight-Time Pay:** This may be provided at the non-exempt employee’s hourly rate for time worked beyond the required hours in a scheduled workweek where no more than 40 hours are

worked. This may happen when a University holiday or inclement weather day has occurred or when the employee has taken paid leave during the scheduled workweek.

b. **Compensatory Leave:** This provides a non-exempt employee with paid leave as compensation for working beyond the normal scheduled hours but not actually working more than 40 hours in a scheduled workweek. The employee accrues one hour of leave for each hour worked beyond the required hours in a workweek where no more than 40 hours are worked. Compensatory leave does not expire.

3. **Responsibilities:**
   School/department/unit senior management or designee(s) are responsible for:
   - Maintaining accurate records of time worked each day by non-exempt staff in the HRMS as required by the Fair Labor Standards Act.
   - Authorizing overtime ***before*** overtime work is performed by non-exempt staff.
   - Assigning overtime primarily on a cost-effective basis based on the University's business needs and in a fair and equitable manner.
   - Monitoring overtime reports such that overtime expenditures are based on business need, appropriate for the situation, fiscally prudent, and considerate of an employee's welfare.
   - Scheduling the assignment of overtime to cause the least inconvenience to staff members.
   - Compensating with overtime leave when appropriate as determined by the manager and communicated to the employee in advance.
   - Reviewing the need for special pay such that it meets with a true business need.
   - Applying straight-time pay and/or compensatory leave when appropriate.

   Non-Exempt employees are responsible for:
   - Accurately recording the time worked each day on the employee time record maintained in the HRMS.
   - Understanding that overtime, when assigned, is a position requirement.
   - Obtaining ***prior approval*** from management before working any overtime.

   UVA Human Resources is responsible for providing:
   - Training resources to all University staff, classified staff, and wage employees who are non-exempt on how to correctly record time in the HRMS.
   - Training resources to supervisors and managers on managing time in the HRMS.
   - Reporting capability for supervisors and managers to analyze team trends including average weekly hours worked and average weekly overtime.

4. **Compliance with Policy:**
   Failure to comply with the requirements of this policy (including, but not limited to obtaining supervisor approval before working overtime) may result in disciplinary action up to and including termination in accordance with relevant University policies.

   Direct questions about this policy to Total Rewards.

Procedures

See Overtime Leave under your employee category on Paid Time Off Plans.

Related Information

HRM-029: Managing Staff Wage Employment

Major Category Human Resource Management

Next Scheduled Review Saturday, June 5, 2027

Revision History

Edited section 1.b with FLSA definition of on-call 6/5/24; Updated 4/23/21.

Policy Summary

The University administers overtime compensation for non-exempt employees in compliance with applicable state and federal laws, including the Fair Labor Standards Act (FLSA), which establishes the federal minimum wage, overtime pay, record keeping requirements, and child labor standards for full- and part-time workers in the private sector, and in federal, state, and local governments.

To achieve consistent administration of pay and facilitate FLSA compliance, this policy establishes overtime compensation requirements and encourages management best practices contributing to cost-effective, fair, and equitable employee treatment, as well as facilitation of work/life balance. Pursuant to this policy, the University classifies each employee or position as either exempt or non-exempt.

Approved By Executive Vice President & Chief Operating Officer

Approved Date Thursday, October 29, 2015