



Guidelines Title: Overtime/Compensatory Time Guidelines for Non-Unit Employees

Guideline Number: HR-Internal-09

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Responsible Office: Office of Human Resources - UMSO

Last Reviewed/Updated: New Guidelines

INTRODUCTION

The purpose of these guidelines is to comply with federal and state laws regarding Overtime and Compensatory Time off; and to provide University employees, and supervisors, with directions necessary to comply with the Overtime pay provisions of the Fair Labor Standards Act (FLSA).

DEFINITIONS

Compensatory Time: paid time off the job, which is earned and accrued by an employee instead of immediate cash payment for Overtime.

Exempt Staff: staff that are not subject to the Overtime pay or Compensatory Time off provisions of federal and state wage laws.

Fair Labor Standards Act (FLSA): the federal law that establishes labor standards for public and private sector employees. It is enforced by the Wage and Hour Division of the U.S. Department of Labor.

Hours Worked: In general, "hours worked" includes all time an employee must be on duty, or on the employer's premises or at any other prescribed place of work, from the beginning of the first principal activity of the work day to the end of the last principal work activity of the workday. Also included is any additional time the employee is allowed (i.e., suffered or permitted) to work. Paid time off such as vacation time, sick time, personal time, holiday time, and Compensatory Time off, are not included in hours worked (**see Hours of Work/Payable Time for Non Exempt Staff Guidance**).

Non-exempt Staff: staff eligible for Overtime pay or Compensatory Time off according to federal and state law.

Overtime: time actually worked beyond eight (8) hours in a day or forty (40) hours in a Workweek, except in the cases of an agreed upon fixed schedule.

Premium Rate: an employee's regular rate times 1.5.

Tour of Duty: The hours of a day and the days of the week, that constitute an employee's regular scheduled administrative workweek. A flexible or compressed work schedule is a scheduled tour of duty and all work performed by an employee within the basic work requirements is considered regularly scheduled work.

Workweek: A Workweek is a period of 168 hours during 7 consecutive 24-hour periods. The Workweek for the University's President's Office begins at midnight on Sunday and ends on the following Saturday at midnight.

OVERTIME GUIDELINES

- The Office of Human Resources is responsible for determining which positions are non-exempt and subject to Overtime pay and which positions are exempt from Overtime pay. The Office of Human Resources is responsible for sharing this information with the division/department heads and advising them on Overtime pay matters.
- The division/department head is responsible for communicating to employees at the time of employment the following:
 - whether their positions are non-exempt and eligible for Overtime pay;
 - the Overtime policy and procedures; and
 - the degree to which work schedules may be modified.
- Employees exempt from the FLSA are not paid Overtime. Exempt employees within the University are expected to work the hours required to do their job in an effective and efficient manner.
- Overtime pay is based on hours worked and is calculated at the rate of one and one-half times (1.5) the employee's regular hourly rate in excess of eight (8) hours in any one Tour of Duty or forty (40) hours in any one Workweek except in the cases of an agreed upon fixed schedule. Paid time off such as vacation time, sick time, personal time, holiday time, and Compensatory Time off, are not included in Hours Worked.
- Subject to the provisions of the FLSA, Overtime work, including that for which compensatory time will be earned, must be approved in advance. Employees who fail to obtain approval prior to working hours that extend beyond their normal tour of Duty may be subject to disciplinary action. Employees are expected to work Overtime when requested to do so.
- If an Overtime-eligible University employee agrees to receive Compensatory Time instead of Overtime pay, the Compensatory Time must be credited at the same rate as cash Overtime: no less than one and one-half (1.5) hours of Compensatory Time for each hour of Overtime worked. Employees who are receiving Compensatory Time are required to sign a **Statement of Agreement /Understanding (see Attachment A)** explaining the employer's right to compensate Overtime in the form of compensatory leave prior to the actual performance of work, or at the time of hire.
- Compensatory Time off may accrue to a maximum of 240 hours. Once employees have accrued 240 hours of Compensatory Time, they must be paid for time worked over 8 hours a day that is in excess of the 240-hour maximum.

- The use of accrued Compensatory Time must be granted to employees upon request unless the granting of such time would unduly disrupt the effective functioning of the unit. Mere inconvenience is an insufficient basis for denial of a request to use accrued Compensatory Time. Under appropriate circumstances, a supervisor may implement reasonable rules surrounding the use of Compensatory Time, such as requiring an employee to use accrued Compensatory Time on a particular day or during a particular timeframe.
- The University requires that all employees use compensatory leave before the use of vacation or personal time.
- At the time of separation, transfer, or a change of status from non-exempt to exempt, the employee will be paid for all accrued Compensatory Time by the department in which it was earned. Such payment must be made at the time of status change.
- All supervisors must ensure that their budget has funds delegated for the payment of Overtime whether in the form of cash or compensatory leave.
- A flexible work schedule is allowed for employees to vary their arrival and/or departure times, which cannot exceed eight hours in their Tour of Duty, but must be a matter of agreement between the supervisor and the employee.
- An employee who has an agreed upon fixed schedule, as long as the hours do not exceed forty (40) hours in a week, would not be subject to daily Overtime. For example, employees may work 10 hours on Monday through Wednesday; 5 hours Thursday; and 5 hours, Friday.
- Work at home and any variation in the work schedule (e.g. flextime, compressed workweek, etc.) must be approved in advance and cannot (without additional approval) result in Overtime/Compensatory Time.
- Staff are responsible to record their time in HR Direct; supervisors are responsible to approve time. It is essential that the time report accurately reflect time worked on an hour for hour basis.

Attachment A
Statement of Agreement /Understanding

In accordance with the provisions of the Fair Labor Standards Act, the University of Massachusetts President's Office allows employees in non-exempt positions to accrue Compensatory Time off instead of payment for Overtime hours worked.

I have been offered the opportunity to work Overtime on:

Date: _____

Time: _____

For this assignment, I accept Compensatory Time at the rate of one and one-half hours for each Overtime hour worked instead of receiving payment for Overtime hours worked.

I also understand that the maximum amount of FLSA Compensatory Time I can accrue is 240 hours. I understand that accrued Compensatory Time must be used and paid in accordance with University policy.

I have reviewed the Overtime/Compensatory Time procedure at:

<https://www.umassp.edu/employee-center/resource/hr-internal-09-overtime-compensatory-time-guidelines-non-unit-employees>

I agree to accept the Overtime assignment as it has been described in this document.

Employee Name

Date

Supervisor Name

Date