



POLICY MANUAL

EMPLOYMENT

Number 378

Subject: Overtime

Covered Employees: Non-exempt Employees

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378.1 DEFINITIONS

1.1 Non-exempt Employee

An individual who is covered by the Federal Government's Fair Labor Standards Act (FLSA) and must be compensated at one and one-half times the regular rate for hours exceeding 40 in a work week.

1.2 Exempt Employee

An individual whose duties are specialized and/or compensation is such that he/she is paid to perform that work, regardless of how much time is spent, is exempt from the FLSA.

378.2 POLICY

The use of overtime is generally discouraged and should be avoided through proper scheduling of department workloads. With the exception of certain emergency situations, all overtime should be approved in advance by the department head/supervisor.

Agreeing to work overtime when requested by a supervisor is a condition of employment. Refusal to work a reasonable amount of overtime, especially under emergency conditions, may result in disciplinary action. The overtime pay rate for non-exempt employees who work more than 40 hours in a week is one and one-half times the regular rate. Exempt employees do not receive overtime pay.

In lieu of overtime pay, non-exempt employees may receive compensatory time off at a rate of one and one-half times the number of hours worked in excess of 40 in a work week.

Compensatory time off should be used within the same pay period that it is accumulated; however, due to extenuating circumstances, supervisors may request that it be saved for use at a later date.

In most cases, the maximum number of compensatory hours that can be saved before payment or time off must be given is 120 hours.

2.1 Work Week

The University work week begins at 12:01 a.m. on Saturday and ends at midnight the following Friday. Saturday and Sunday, therefore, are at the beginning of the work week, and work on these days does not constitute overtime. Overtime would not occur until later in the week when 40 hours is exceeded.

All work over 40 hours within a week is compensated at one and one-half times the regular rate. Only hours *actually worked* count toward the 40 hours-per-work-week test for overtime paid to non-exempt employees. Time away from work for which the employee is paid (e.g., sick leave, annual leave, holidays, etc.) does not count toward the 40 hours-per-work-week test.

2.2 Hours Worked

Time spent by an employee engaged in any part of the job's main duties is considered as hours worked. This includes work that occurs outside regular working hours or during lunch hours. Generally it does not matter where this activity occurs; it is still counted as hours worked. Time spent in preparatory work, cleanup, or any other required preliminary and postliminary activity also counts as hours worked. In addition, time spent by an employee waiting because of interruptions beyond his/her control is counted. For information concerning call-back pay, see Policy 375.

2.3 Recording Hours Worked

Hours worked by all hourly/non-benefited employees and non-exempt employees in variable-hour positions must be recorded by the employee, approved by the department head/supervisor, and reported monthly using the University's electronic payment system. The FLSA requires that complete and accurate time records be kept for all non-exempt employees, and that these records be kept for three years. USU requires a time keeping method that allows employees and supervisors to sign each monthly time sheet/card. All time records must be stored at the department/unit level.

2.4 Overtime Payment

Payment should be made within the pay period in which the overtime occurred. Salary payments for overtime are made using the Banner form PHATIME.

2.5 Holidays

The University observes specific holidays each year. For work scheduled on a holiday, employees will report as directed. Benefited staff are eligible for paid holidays. If a non-exempt employee works 33-40 hours in a week that includes a holiday, that time is paid as straight time. However, if that employee works more than 40 hours in a week that includes a holiday, those hours are paid at one and one-half times the regular pay.

2.6 Occasional and Sporadic Employment

Employment in a second University position, which is occasional and sporadic and in a different capacity, may not have to be compensated at one and one-half times the regular rate even if the total combined hours exceed the 40-hour limitation. To meet this criterion, the work must be intermittent and irregular, rather than continuous and regular. The Department of Labor has identified employment in certain activities as occasional and sporadic. Situations should be reviewed on a case-by-case basis. Employment in the different capacity must be made freely by the employee without fear of reprisal.

2.7 Volunteers

Individuals who volunteer their services and receive no compensation are excluded from the definition of “employee” and are thus excluded from coverage of the Fair Labor Standards Act. They may be paid expenses, reasonable benefits, nominal fees, or a combination of these. However, University employees may not volunteer to perform services of the same type they are employed to perform.

378.3 RESPONSIBILITY

3.1 Department Heads and Supervisors

Responsible for approving overtime in advance and making sure new employees understand whether their positions are non-exempt (eligible for overtime pay) or exempt (not eligible for overtime pay).

Responsible for communicating the necessity of having to work overtime when requested as a condition of employment. Supervisors must approve the number of hours worked by an employee within the pay period and specify if a payment is for overtime.

3.2 Employees

Responsible for accurately recording work hours, cooperating with overtime work needs, and balancing University and personal needs when establishing flexible work schedules.