SECTION 2.3 Excess and Overtime Compensation

MAPP 02.01.03 and SAM 02.B.02, as excerpted in this policy, prescribes policies and procedures to be followed regarding compensation in order to comply with the overtime provisions of the Fair Labor Standards Act (FLSA), and Article V of the State of Texas General Appropriations Act.

This policy provides general guidelines to ensure compliance with the overtime provisions of the Fair Labor Standards Act (FLSA) and the General Provisions of the State of Texas General Appropriations Act. The provisions of this policy and its companion procedure apply to all staff employees of the University of Houston, regardless of the source of funds from which paid.

The University Centers complies with all applicable aspects of the FLSA.

Activities should be planned so that work may be accomplished within the standard forty-hour (40) workweek. In unavoidable circumstances, such as emergencies or peak load periods, employees will be compensated for overtime and extra hours worked in accordance with this policy. Managers are responsible for planning staffing requirements to minimize overtime work.

DEFINITIONS

Cash payment: Method of payment including direct deposit or Payroll card.

Compensatory time (comp time or compensatory leave): Leave time earned in lieu of pay for time worked beyond the forty-hour (40) workweek. There are two types of non-exempt compensatory time, with different restrictions:

- Fair Labor Standards Act (FLSA) compensatory time of one and one-half (1.5) hours: Leave that is earned at one and one-half hours for every hour actually worked in excess of forty (40) hours in a workweek.
- Straight-time compensatory time (1.0, state comp. time): Leave that is earned at the rate of one hour for every hour worked when hours actually worked during a workweek are forty (40) or fewer, but total hours for pay including paid leave and holidays exceeds forty (40).

Employee: Any person employed by the University of Houston and paid through the university payroll system.

Exempt employee: An employee in a position that is not subject to the overtime provisions of the FLSA. Exempt employees include professionals, administrators, and executives; they are paid on a monthly basis.
Extra hours or Straight-time: The hours in excess of forty (40), when hours actually worked during a workweek are fewer than forty (40), but total hours for pay including paid leave and holidays exceeds forty (40).

Non-exempt employee: An employee in a position deemed non-exempt by the Fair Labor Standards Act and, therefore, subject to the overtime provisions of the FLSA. Non-exempt positions include positions formerly designated in the University of Houston compensation plan as Office and Clerical, Technical, Service, and Crafts, or Non-College Work Study are paid biweekly on an hourly basis.

Overtime: Hours actually worked over forty (40) in the standard workweek by a non-exempt employee.

Overtime pay: Cash payment for time actually worked in excess of forty (40) hours in the standard workweek by a non-exempt employee. (Compensation is at the rate of one and one-half times (1.5) the employee's regular rate of pay for all overtime worked.)

Regular, full-time employee: A university employee who is employed at 1.0 FTE on a regular basis for at least four and one-half continuous months, excluding positions that require student status as a condition of employment.

Standard workweek: As defined at the University of Houston, for the purposes of overtime and compensatory time for non-exempt employees, the period beginning at 12:01 a.m. on Wednesday and extending through the seven-day period ending at midnight the following Tuesday.

GENERAL PROVISIONS

All staff employees paid on a full-time basis is required to work a minimum of forty (40) hours per week unless on approved leave status. Employees are required to work whatever hours are necessary to satisfactorily accomplish the job; the acceptance of such a requirement is a condition of employment.

All overtime and extra hours must be authorized in advance by the unit manager of the department. Non-exempt employees may not make unauthorized decisions to work overtime or extra hours. Working unauthorized time may subject the employee to disciplinary action, up to and including termination. Similarly, compensation for overtime or extra hours may not be waived by the non-exempt employee.

The unit manager of the department shall determine whether work in excess of the regular workweek will be compensated in compensatory time or cash payment. The employee will be notified of the type of compensation prior to the performance of the extra work.
Supervisors are responsible for monitoring work hours of employees under their supervision and for ensuring that information reported on timesheets is complete and accurate. This responsibility includes scheduling use of compensatory time by the employee.

When an employee works at multiple assignments, the appropriate management staff is responsible for ensuring that total hours worked in a workweek are monitored and the employee is compensated in accordance with this policy.

COMPENSATION FOR OVERTIME - NON-EXEMPT EMPLOYEES

Non-exempt employees are subject to the overtime provisions of the Fair Labor Standards Act and must be compensated according to FLSA guidelines for all hours actually worked in excess of forty (40) hours in the workweek. Compensation to employees for overtime shall consist of either of the following methods:

- Compensatory time off at the rate of one and one-half (1.5) hours for each overtime hour worked.
- Cash payment at the rate of one and one-half (1.5) time their regular rate of pay for all overtime hours.

Paid leaves and/or holidays taken are not counted as hours worked for purposes of determining overtime hours. Only hours actually worked during that workweek are counted.

When the non-exempt employee is granted compensatory time under FLSA for overtime work, the following guidelines apply:

- An employee may not accrue more than two hundred forty (240) total hours of compensatory time for overtime hours worked. (In the case of employees involved in public safety, emergency response, or seasonal work, the maximum accrual limit is four hundred eighty (480) hours.)
- Accrued compensatory time must be taken during the twelve (12) month period following the end of the workweek in which the overtime was worked.
- Any FLSA compensatory time not taken within twelve (12) months or such compensatory time in excess of the applicable accrued maximum hours must be paid at a rate equal to one to one and one-half (1-1/2) times the employee's current rate.
- The University of Houston has the option of paying off accrued FLSA compensatory time at any time.
- Accrued FLSA compensatory time must be paid in cash to the employee upon termination or to the employee's estate upon death.
- When an employee transfers to another position within the University of Houston, the compensatory time becomes the liability of the hiring department. When a non-exempt employee transfers to an exempt position, FLSA compensatory time must be paid out by the department from which the employee is transferring at the time of the transfer.
COMPENSATION FOR EXTRA HOURS - NON-EXEMPT EMPLOYEES

In a situation where a non-exempt employee has not worked more than forty (40) hours in a workweek, but the total of hours worked and hours of paid leave and/or paid holidays exceeds forty (40) hours, the employee must be compensated for the excess hours over forty (40) by either of the following methods:

- Compensatory time at the rate of one hour for each extra hour over forty (40) hours;
- Cash payment for the hours in excess of forty (40) on an hour-for-hour basis at the employee's regular rate of pay, in addition to the regular pay for the pay period during which it was earned, when taking compensatory time off would be disruptive to normal teaching, research, or other critical functions.

When the non-exempt employee is granted straight-time compensatory time for extra hours over forty (40), the following guidelines apply:

Straight-time compensatory time is subject to the limits defined under COMPENSATION FOR OVERTIME - NON-EXEMPT EMPLOYEES:

- 240 or 480 hour maximum accrual limits
- 12-month period within which the compensatory time must be taken
- Transferability of liability to the hiring department

Under state law, employees may not be paid for any unused straight-time compensatory time. Therefore, accrued leave beyond the stated limits will be forfeited, as it will if not taken within the 12-month period, or upon termination.

HOLIDAY COMPENSATION

All eligible employees required to work on a scheduled holiday are entitled to equivalent time off with pay to be taken during the following 12-month period.

Employees may be paid for holiday compensatory time hours earned on a straight-time basis when the supervisor determines that allowing the employee to take compensatory time off would be disruptive to normal teaching, research, or other critical functions.

ADDITIONAL COMPENSATION FOR ADDITIONAL UNIVERSITY ASSIGNMENTS

If a non-exempt employee undertakes on an occasional or sporadic basis, and solely at the employee's option, part-time employment within the University of Houston that is in a substantially different capacity from that in which the employee is regularly employed, the hours worked in the additional part-time job shall be excluded in assessing hours worked for overtime purposes.
Examples of such substantially different, sporadic employment include: officiating at recreation and sports events, taking of tickets, food and beverage sales at special events, etc. All other hours worked within the university shall be combined for overtime purposes.

An employee in a full-time exempt position, who, on a continuing basis, works extra hours in a non-exempt position within the University of Houston, may be subject to the overtime requirements of the Fair Labor Standards Act. Overtime eligibility depends upon the percent of non-exempt duties that are performed in that workweek. In cases where exempt employees are working non-exempt assignments, the supervisor should consult the Compensation section of the Human Resources Department.

An exempt employee working additional assignments beyond the scope of their regular employment is subject to university "additional compensation" policies (MAPP 02.01.06).

APPROVAL

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REVIEW AND RESPONSIBILITY
Responsible party: Student Life Policy Team
Review: Every two years on or before August 31st

APPROVAL
Dr. Noel J. Clarke, Director Business Operations