

31.01.09.K0.01 Overtime



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Procedure Summary

Under the Fair Labor Standards Act (FLSA), a non-exempt employee must be compensated for working more than 40 hours in a workweek with either time off or pay. Under Texas law, a non-exempt employee with a combination of hours worked, paid leave, compensatory time, and paid holidays totaling more than 40 hours in a workweek must also receive either time off or pay for the additional hours in accordance with System Regulation *31.01.09, Overtime*.

This procedure provides guidelines for overtime eligibility and compensation.

Definitions

Workweek – A fixed and regularly recurring period of seven consecutive 24-hour periods (168 hours), beginning on Sunday and ending on Saturday.

Pay period – A predetermined set of consecutive calendar days during which an employee's work hours are recorded and for which a payroll check is subsequently produced.

Regular rate of pay – According to the FLSA, a regular rate of pay is expressed as a rate per hour and must be calculated for computing overtime pay. This rate includes both the basic monthly or hourly rates and any longevity or hazardous duty pay received during the month in which overtime occurs. (See System Regulation *31.01.04, Longevity and Hazardous Duty Pay*.)

Biweekly Pay Period – A period that consists of two workweeks, each of which begins on a Saturday and ends on a Sunday. All TAMUK non-exempt employees' work schedules will be defined in this pay period.

Fair Labor Standards Act (FLSA) – A federal statute, which governs the administration and compensation of overtime.

Non-exempt employees – Employees primarily performing work that is subject to the overtime provisions of the Fair Labor Standards Act.

Exempt employees – Employees who are exempt from overtime pay requirements.

Federal overtime – Mandatory at the time a non-exempt employee works more than 40 hours in a workweek resulting in overtime, compensated at a rate of one- and one-half times the regular rate of pay or be granted one and a half hours of compensatory time for hours worked in excess of 40 hours in a workweek.

State overtime – When an employee has not worked more than 40 hours in a workweek, but the total hours worked and hours of paid leave or holidays exceed 40 hours, the employee earns one hour of compensatory time off for every hour in excess of 40 hours in a workweek.

Compensatory time off – Paid time off that is earned and accrued by an employee instead of immediate cash payment for working overtime hours.

Procedures

1. NON-EXEMPT EMPLOYEES

- 1.1. Authorization for overtime must be provided by the department/unit head or their designated representatives on the determination of need, workload, emergencies, or other demands that require work by employees with specific skills, training or experience. Overtime work should be scheduled to provide fair and even distribution of overtime work among staff members whose job classifications are appropriate for the work required.
- 1.2. Where granting compensatory time off is impractical, employees will be paid for the overtime. This option is available in limited circumstances and only with the approval of the department/unit head or designated representative and the respective vice president.
- 1.3. Overtime not authorized must also be counted as work time. However, non-exempt employees who work without authorization are subject to disciplinary action, up to and including termination, in accordance with System Regulation 32.02.02, *Discipline and Dismissal of Nonfaculty Employees*.
- 1.4. The normal workweek (starting and ending day and time) cannot be changed to avoid overtime.

2. EXEMPT EMPLOYEES

Exempt employees are not eligible for overtime payment. However, under extraordinary circumstances, and with the approval of the CEO designee, an exempt employee may be approved for compensatory time off as outlined in System Regulation 31.01.09, *Overtime*.

3. FLSA COMPENSATORY TIME OFF

- 3.1. To ease the administration of overtime, supervisors should encourage employees to take FLSA overtime during the 12-month period following the end of the workweek in which the overtime was worked.
- 3.2. Employees are required to use FLSA compensatory time before using vacation time. An employee can request approval to use their earned compensatory time and permission will be granted if his or her absence does not unduly disrupt the operation of the department.
- 3.3. Employees accruing 80 or more hours of FLSA compensatory time will be paid for the hours over 80. These Comp time hours will be reviewed by Human Resources at the end of each fiscal quarter.

Related Statutes, Policies, or Requirements

Tex. Gov't Code §§ [659.015\(g\)](#), [659.016](#), [659.018](#), [659.023](#)

[System Regulation 31.01.09, Overtime](#)

[System Regulation 31.01.04, Longevity and Hazardous Duty Pay](#)

[System Regulation 32.02.02, Discipline and Dismissal of Nonfaculty Employees](#)

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