

Oklahoma State University Policy and Procedures

TIMEKEEPING AND OVERTIME (In Compliance with the Fair Labor Standards Act)	3-0742 ADMINISTRATION & FINANCE JUNE 2015
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1.00 PURPOSE

1.01 An integral part of the employment program of the University is a uniform policy related to the earning and compensation for overtime and on-call pay.

1.02 This policy sets forth provisions of the Fair Labor Standards Act (FLSA) and corresponding statutes of the State of Oklahoma and their application within the OSU work environment for exempt and nonexempt employees regarding pay and time keeping. This includes, but is not limited to, the earning of and payment for overtime, establishment of the official workweek, and recording of time worked.

1.03 The following policies and procedures may also address overtime, on-call pay, and timekeeping requirements:

- Policy 3-0709 University Holidays
- Policy 3-0713 Attendance and Leave for Staff
- Policy 3-0740 Classification and Pay Plan for Staff

2.00 SCOPE

2.01 This policy applies to all OSU employees and all OSU campuses and any other location where business of the University is conducted.

3.00 DEFINITIONS

3.01 **AVAILABLE ON-CALL** -The employee is required to be available to work when the need arises outside normal working hours. In this case, an employee's activities are NOT restricted as long as the employee is available by telephone or cellular device.

3.02 **CALL-IN** -The employee is called and reports for duty outside normal working hours.

3.03 **COMPENSATORY TIME** – Time accrued in lieu of overtime payment at 1.5 hours for every hour worked in excess of 40 hours worked in a single workweek. In rare cases, compensatory time will be accrued at straight time as applicable under federal law.

3.04 CALL-IN DUTY - The employee is assigned a period of time to be available to report for emergency work when the need arises outside normal working hours. Such assignment requires the employee's personal activities be severely restricted during the time in which the employee may be called-in to work during not regularly scheduled work times. In this case, an employee may be required to be within a certain geographical distance from the work site, restrict the employee from participating in certain personal and/or recreational activities, or to be available within a specified time. In all cases falling under this definition, the nonexempt employee is not able to utilize his or her time effectively for his or her own purpose.

3.05 EXEMPT - The position meets the FLSA tests for exemption from the timekeeping and overtime provisions of the Act.

3.06 FLSA (Fair Labor Standards Act) - The federal FLSA establishes minimum wage, overtime pay, timekeeping, and child labor standards affecting full-time and part-time workers in the private sector and in federal, state, and local governments.

3.07 NONEXEMPT - The position does not meet the FLSA tests for exemption from the overtime and timekeeping provisions of the Act, and the employee must be compensated for overtime.

3.08 OVERTIME- Hours worked in excess of 40 in a workweek. Compensation for overtime hours is 1.5 times the employee's regular pay rate. Only hours worked will be used in the calculation of overtime pay; (holidays, administrative leave, vacation time, sick time, inclement weather days) will not be used in the calculation of overtime.

3.09 WORKWEEK -A regular, recurring period of 168 consecutive hours (See Section 4.01 of this policy for OSU's official workweek.)

UNIVERSITY POLICY AND PROCEDURES

4.00 GENERAL POLICIES

4.01 The official workweek of the University shall be from 12:00 midnight Sunday until 11:59 p.m. the following Saturday. Any variance from the official workweek must be requested in writing and approved by the Senior Vice President of Administration and Finance. Such approved variances shall be kept on file in the Office of University Human Resources.

4.02 The employment and work program of each department or division of the University should be managed so the necessity for overtime work is reduced to a minimum, except for emergency situations.

4.03 Nonexempt employees are expected to work a reasonable period of overtime when conditions warrant the scheduling. Notice to employees scheduled to work overtime will be given by the supervisor as early as possible.

4.04 Provisions of the Fair Labor Standards Act place a liability upon the employer for the payment of overtime for all hours that an employee who is not specifically exempt from overtime payment is either requested or permitted to work in excess of the statutory limitation. Therefore, under no circumstances may a nonexempt employee perform work of any nature for the University at his normally assigned work station, or anywhere else on the employer's premises, in excess of his/her normal work schedule, unless such overtime work has been specifically authorized by the supervisor.

5.00 DETERMINATION OF EXEMPTION

5.01 University Human Resources or a local office as designated by the Chief Human Resources Officer reviews all position descriptions to ensure appropriate designation for exempt status under the Fair Labor Standards Act.

5.02 Designation of exempt or nonexempt status of a specific position is available on the Human Resources Information System .

5.03 Appointment or work in two or more positions with both exempt and nonexempt status is strongly discouraged as mixed appointments may result in disqualification of the exempt status. University Human Resources must be consulted before mixed appointments are offered.

6.00 TIME RECORDKEEPING FOR NONEXEMPT EMPLOYEES

6.01 Accurate records of time worked shall be made and preserved for each nonexempt employee (including those paid on a monthly, rather than biweekly, basis). These time records shall include all hours worked, including any overtime hours worked during the workweek covered by the time record. These time records shall be kept available for inspection for three years.

6.02 Time sheets must reflect accurate hours worked by the nonexempt employee, be signed or electronically recorded by the employee and verified by the employee's supervisor. Falsification of time records may result in termination of employment. Failure to submit time records timely and consistently to meet payroll deadlines may result in corrective action up to and including termination of employment.

6.03 The work for which nonexempt employees must be paid (at the rate of at least the current minimum wage) and which must be counted in computing liability for weekly overtime pay is described as the time the employee is actually at work, regardless of the location, or required to be on duty.

6.04 If a nonexempt employee is contacted by a University representative outside the normal work time to discuss work related issues, the actual time spent discussing said issues, but not less than 15 minutes, shall be considered actual time worked and reported on the time record.

6.05 Time Worked

- A. Approved rest periods as specified in Policy 3-0713 section 6.01 on Rest Periods are counted as working time, in addition to time actually worked.
- B. Lectures, meetings, and training programs when attendance is required by the supervisor are counted as time worked.
- C. Travel time (time en-route) may be considered working time in accordance as set out below:
 - a. Travel time from job site to job site during a workday, after reporting for the day's work.
 - b. Travel time from home to work and return on a special one-day assignment in another city. Deduct the usual time from home to regular work site and return and meal time(s).
 - c. Travel time for out-of-town assignments of more than one day. The travel time that coincides with the employee's normal work-day schedule is counted as time worked. This applies to any day of the week.
 - d. Time for work performed while traveling. The time is counted as hours worked whether or not it occurs within the employee's normal working hours.
- D. Not counted as working time are bona fide meal periods, vacation, sick leave, other leave, and holidays not worked.

7.00 TIME RECORDS FOR EXEMPT EMPLOYEES

7.01 Records of time may be kept for exempt employees to determine project assignment, time management or other reasons. However, in no case shall such records be used in the determination of actual payment of compensation.

7.02 Exempt employees are required to keep an accurate record of leave taken and report such leave to the unit administrator at the end of each month for accurate reporting on the Human Resources Information System. Failure to do so may result in termination of employment.

8.00 OVERTIME PAYMENT FOR NONEXEMPT EMPLOYEES

8.01 The biweekly payroll is a positive time input pay system which determines payments based on the actual record of time worked. As such, it is the most suitable method of payment for nonexempt employees.

8.02 Payment of nonexempt employees on the monthly payroll does not eliminate the responsibility of the employee or the unit administrator to ensure that compensation is calculated based on actual working hours within the work week. This will require unit administrators to review the prior month time record for any hours worked within a work week that spans portions of two separate months.

8.03 Nonexempt staff shall receive overtime compensation or compensatory leave at the rate of time and one-half (1.5) their regular rate for all hours worked in excess of 40 hours in any workweek. Each workweek shall stand alone and may not be averaged with any other week.

8.04 Payment for overtime should be made within the same pay period, if possible, or no later than the pay period following the one in which the overtime hours were worked, unless hours are accumulated as compensatory time.

8.05 If compensation for overtime worked is accrued in compensatory time, in lieu of actual payment, such compensatory time will be given according to the following:

- A. Nonexempt employees may not accrue more than 240 hours of compensatory time (160 hours of overtime work x 1.5 = 240 hours). When a nonexempt employee's compensatory time balance exceeds the accumulation limit of 240 hours, the employee must be paid for any additional hours over the limit at time and one half (1.5) the employee's regular rate of pay.
- B. The use of accumulated compensatory time will be taken within a reasonable period when it will not be disruptive to department operations. Upon reasonable notice, a department head may request that an employee use all or a portion of the accrued compensatory time, at any time this is deemed advisable.
- C. At termination of employment, payment for accrued compensatory time shall be calculated at the employee's regular rate of pay at time of termination.
- D. When an employee with a compensatory time balance transfers to a nonexempt position in another department, accumulated compensatory time will be transferred to the new department unless the new department requires it taken as time off before the effective date of the transfer, paid as compensation, or a combination of these. The new department may agree to accept the accumulated compensatory balance but request a budget transfer of funds from the former department to reflect the financial liability of the transfer.
- E. When a nonexempt employee changes to exempt status, the accumulated compensatory time must be eliminated by payment, taking the time off, or a combination of these, before the nonexempt employee transfers to the exempt position. If the change involves moving to another department, a cooperative decision by the two department heads may be necessary.

8.06 A nonexempt employee may not "volunteer" to his/her own agency services of the same type s/he is employed to perform.

8.07 When a nonexempt employee performs additional nonexempt work at a different pay rate than the employee's normal pay rate, outside the scope of their primary nonexempt position duties and/or normal working hours, the hours spent performing the duties will be calculated at a blended rate and compensated at one and one-half times (1.5) that blended rate. Unit administrators must consult with University Human Resources prior to the employee engaging in additional work to determine the proper blended rate to use in calculating overtime payment.

9.00 OVERTIME FOR EXEMPT EMPLOYEES

9.01 Certain farm workers and recreation workers are exempt from the requirement for overtime compensation at the 1.5 rate. However, these farm and recreation workers shall be compensated hour-for-hour for all hours worked.

9.02 Employees meeting exempt status, except as outlined above, may not accumulate or be compensated for hours worked in excess of 40 in a workweek. Exempt employees are expected to spend whatever hours are necessary over and above the basic workweek in the completion of their work assignments.

10.0 AVAILABLE ON-CALL AND COMPENSATION

10.01 When an employee is merely required to provide contact information to be reached by telephone or cellular device, no additional hours of work will be awarded unless the employee is scheduled for call-in duty as outlined in Section 11 below.

10.02 Positions requiring employees to carry cellular devices will indicate such requirements on the position description and any applicant should be advised prior to being hired.

10.03 Nonexempt employees contacted by a University representative to discuss work related issues during non-scheduled work time shall be compensated as time worked not less than one quarter hour (15 minutes) or the length of the call, whichever is greater. Departments should take care to determine proper recording of time worked and compensation is made either in compensatory time or actual monetary compensation at the applicable rate.

10.04 Departments requiring employees to be conveniently reached for work related issues during normally scheduled work time, as well as not regularly scheduled work time, may provide an adjustment to the rate of pay in accordance with University policy for the purpose of compensating the employee for the cellular device required for the purpose of receiving and making calls to address work related issues.

11.00 CALL-IN DUTY AND COMPENSATION

11.01 Some nonexempt positions with duties including, but not limited to, safety, utilities, maintenance, and similar services require the employee to be available and ready to work outside normal working hours

11.02 Departments should consider the restrictions placed on employees' personal time when establishing a call-in duty status and should utilize this status only in necessary situations.

11.03 This call-in status does not apply to positions which are not regularly scheduled for such duties.

11.04 Whenever possible, departments requiring employees to be in on-call duty status will indicate such requirements on the position description and any applicant should be advised prior to being hired.

11.05 The department scheduling call-in duty may determine the period of time to be covered (whether for one evening, a weekend, a week or longer) based on the number of eligible employees and the availability needs for the service(s). The scheduled participation shall be administered in an equitable manner by the department.

11.06 Nonexempt employees on call-in duty will be provided with an additional one hour minimum for each period of call-in duty. Each day, whether it is after hours of a normal work day, a regular rest day, or a holiday, will count as a separate call-in duty period. This minimum of one hour per day will be considered as time worked for the purpose of calculating any overtime in the work week.

11.07 If a nonexempt employee is called in to work while on call-in duty, the employee will be compensated for the actual time worked in excess of the one hour minimum established for call-in duty.

11.08 When called in, work will be limited to the minimum time necessary to correct the emergency, with the remaining work to be completed during normal working hours.

Revised: June 2015