

# **Texas Woman's University University Regulation and Procedure**

**Regulation and Procedure Name: Overtime and Compensatory Time for Staff**

**Regulation and Procedure  
Number: URP: 05.405**

**Policy Owner: Finance and Administration**

## **POLICY STATEMENT**

The purpose of this policy is to establish practices for earning and using overtime and state compensatory time as provided by state and federal law and Texas Woman's University ("TWU" or "University") policy.

## **APPLICABILITY**

This policy is applicable to TWU Staff Employees.

## **DEFINITIONS**

1. "Compensatory Time" means time worked over forty (40) hours in a workweek, counting paid leave and paid holidays. Non-exempt employees accrue compensatory time at a rate of one time their regular rate of pay for the additional hours worked. Exempt employees are not eligible for compensatory time unless holiday hours are worked.
2. "Exempt employees" means those employees exempt from the Fair Labor Standards Act under an Executive, Professional, or Administrative exemption.
3. "Fair Labor Standards Act ("FLSA")" means the federal overtime, minimum wage, and child labor laws.
4. "Hours Worked" means all time spent by a staff member that is primarily for the benefit of the University and that is controlled or directed by the University. Hours worked includes required "on duty" time; time which an employee is permitted to work, even if not requested or required; waiting or "idle" time (rest periods, etc.); time spent traveling on official business; time spent in training directed or approved by the supervisor; and, time in an on-call status where a staff member is restricted to home and the on-call conditions are so restrictive that the employee cannot pursue personal activities.

5. "Non-exempt employees" means those employees who do not fall under any of the exemptions under the Fair Labor Standards Act.
6. "Overtime" means any time worked over forty (40) hours in a workweek. Paid leave and holidays are not counted as hours worked for determining overtime hours. Non-exempt employees accrue overtime at a rate of 1.5 times their regular pay rate for the additional hours worked. Exempt employees are not eligible for overtime.
7. "Regular Rate of Pay" means the hourly rate actually paid to employees for a standard, non-overtime work week.
8. "Staff" means each classified, administrative, and professional employee who is appointed to work at least 20 hours each week for a period of four and one-half months and accrues sick leave, excluding students employed in positions for which student status is required as a condition of employment and those employees holding teaching or research positions classified as faculty. This includes both exempt and non-exempt staff employees.
9. "Workweek" means the period beginning Sunday and ending Saturday. State law sets the minimum workweek for regular full-time salaried employees at forty (40) hours.

## **REGULATION AND PROCEDURE**

### **I. Workweek and Work Hours**

- A. The normal work schedule consists of five (5) eight-hour days for a total of forty (40) hours per week. Most employees work from 8:00 a.m. to 5:00 p.m., Monday through Friday. Some departments have responsibilities that require employees to work weekends, night shifts, or hours other than the usual daytime hours. Established work schedules may include approved alternative work arrangements and are subject to change at the supervisor's discretion when such changes are in the best interest of the University. When established work schedules are altered, the supervisor is expected to provide the maximum notice period possible under the circumstances.
- B. Certain work assignments are directly involved with maintaining the safe and uninterrupted operation of the University's facilities and property. Employees with such assignments may be required as a condition of employment to accept shift work or a flexible work schedule involving being "on-call" or "on standby" in the event of emergency situations.
- C. When, in management's discretion, it becomes necessary for an employee to work more than forty (40) hours in a workweek, the employee will be

compensated according to provisions of both the Federal Fair Labor Standards Act ("FLSA") and the Texas Government Code.

## II. Procedures

- A. The Office of Human Resources is responsible for classifying positions as exempt or non-exempt based on the duties and responsibilities as described in the job description and FLSA guidelines.
- B. The FLSA does not limit the number of hours worked each day or week by an employee sixteen (16) years of age or older. A non-exempt employee may work as many hours as are agreed upon with the supervisor, and a non-exempt employee must be compensated for overtime worked.
- C. A non-exempt employee must have prior approval from their manager before working hours, which may result in the earning of FLSA overtime. A supervisor who permits an employee to work overtime is held to the same FLSA standard of a supervisor who orders or authorizes the employee to work overtime. In other words, if a supervisor is aware that a non-exempt employee works through lunch, starts early, or stays late, and works more than forty (40) hours in a workweek, TWU is responsible for compensating the employee for that overtime.
- D. Full-time employees may take two compensable fifteen (15) minute rest periods during the workday. Employees who are scheduled to work at least four (4) hours may receive one compensable fifteen (15) minute break for every four (4) hours during the workday. The utilization of rest periods is subject to the workload demands of the organization unit; supervisors may schedule these breaks to provide for continuity of service. Because rest periods are a privilege and not a right, they may not be taken at the beginning or end of the day or in conjunction with the lunch break, nor may they be accumulated for use at a later date.
- E. FLSA overtime should be used within twelve (12) months of the day it was earned or it will be paid out. Requests to use FLSA overtime must be approved within a reasonable period after the request was made if the use of FLSA overtime does not unduly disrupt TWU operations. To comply with earning limits or limit the payout amount, supervisors may require an employee to take FLSA overtime time off instead of receiving accrued FLSA overtime pay. Supervisors may also require an employee to utilize FLSA overtime before utilizing vacation leave.
- F. If a non-exempt employee works from home for over forty (40) hours in a workweek or a combination of work from home and work at the worksite for over forty (40) hours, the employee is entitled to overtime pay. Any work that the employee works from home counts towards the forty (40) hours. Supervisor approval is required for a non-exempt employee to work over forty (40) hours from home.

- G. Non-exempt, part-time employees working under forty (40) hours in a workweek are paid for hours worked over their designated hours and may not accrue state compensatory time. Non-exempt, part-time employees working over forty (40) hours in a workweek will accrue overtime.
- H. Compensatory time must be approved in advance by the supervisor or responsible department head. Working unapproved compensatory time may result in disciplinary action up to and including dismissal of employment.
- I. In accordance with state law, an employee must use state compensatory time, including holiday compensatory time, within the twelve (12) months following the end of the workweek in which the time was earned or prior to termination or resignation of employment. Any unused state or holiday compensatory time will expire at the close of the requisite time period. Compensatory time cannot be paid and may not be taken in advance of being earned.
- J. The supervisor will determine whether overtime pay or compensatory time off is given for overtime hours. Supervisors are encouraged to accommodate, to the extent practicable, the employee's use of state compensatory time.
- K. When an exempt or non-exempt employee who is eligible for holiday pay is scheduled to work on a holiday, in addition to receiving pay for the holiday, they also receive straight-time state compensatory time for hours worked on the holiday. Supervisors and employees will work together to allow employees to use earned holiday state compensatory time within twelve (12) months from the week when it was earned.
- L. An employee may not be paid for unused state compensatory time upon termination of employment or transfer to a Texas state agency or institution of higher education. An exception may be made to pay the compensatory time at the time of termination, if the supervisor determined that taking compensatory time would have disrupted critical functions during their employment. Payment for state compensatory time may not be made to the estate of a deceased employee.

### III. Travel for Non-exempt Employees

- A. Home-to-work travel: Normal commuting time to a non-exempt employee's regular worksite is not treated as hours worked under the FLSA.
- B. Home to work on a special one-day assignment in another city: When a non-exempt employee must travel out of town for work but returns home the same day, all the time spent traveling during the day is compensable, regardless of the non-exempt employee's regular work hours. However, TWU may deduct the time the employee would have spent commuting to their regular work location.

- C. Travel to multiple locations in a day's work: When a non-exempt employee travels to and from different worksites during the day, but returns home the same day, the travel time is considered work time and must be paid.
- D. Travel away from home: When travel requires an overnight stay, any time traveling as a passenger that falls within the non-exempt employee's normal work hours is compensable, regardless of what day of the week the travel takes place. Time spent traveling to an airport terminal or train station is considered commute time and is not treated as hours worked, but the time spent waiting at the terminal until arrival at the destination is compensable when it falls during normal work hours.
1. For example, if a non-exempt employee normally works Monday through Friday, 8:30 a.m. to 5 p.m., and they are required to travel by plane on a Sunday for business in another state, their travel time on Sunday between 8:30 a.m. and 5 p.m. is compensable.
  2. If a non-exempt employee arrives at the airport on Sunday at 3 p.m. and their destination at 8 p.m., TWU is required to pay them only from 3 p.m. to 5 p.m., the hours that correspond with their normally scheduled work hours.
  3. Alternatively, if a non-exempt employee drives themselves or others at the direction of TWU rather than traveling as a passenger, all the time spent driving is compensable work time, regardless of a non-exempt employee's normal work hours.
- E. Driving at the direction of TWU: When a non-exempt employee is required to drive themselves or others, all driving time is compensable. However, when a non-exempt employee is traveling to an overnight stay and has the option to use public transportation (i.e., airplane, train, bus, etc.) but chooses to drive their own vehicle instead, TWU can either choose to pay for all time spent traveling or pay only the travel time that occurs during normal work hours, regardless of what day of the week the employee travels. If an employee volunteers to drive others in their own vehicle to the overnight stay, an employee's time could be unpaid for those travel hours outside the normal work hours.
- F. Worked performed while traveling. A non-exempt employee must be paid for any time they are performing work. This includes time spent working during travel as a passenger that would otherwise be non-compensable.
1. For example, a non-exempt employee normally works Monday through Friday 8:30 a.m. to 5 p.m. They arrive at the airport on Sunday at 3 p.m. and at their destination at 8 p.m. Generally, TWU is required to pay them only from 3 p.m. to 5 p.m.; however if the non-exempt employee works on a presentation during the flight until 6:30 p.m., TWU would need to pay them from 3 p.m. to 6:30 p.m.

## REVIEW

This policy will remain in effect and published until it is reviewed, updated, or archived. This policy is to be reviewed once every six years. Interim review may be required as a result of updates to federal and state law or regulations, Board of Regents policies, or internal processes or procedures.

## REFERENCES

[Fair Labor Standards Act](#)

[Texas Government Code 662.007](#)

[Texas Government Code 662.0071](#)

## FORMS AND TOOLS

None

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