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Policy for: All Campuses
Procedure for: All Campuses
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I. Policy

In accordance with the Fair Labor Standards Act of 1938, the Fair Labor Standards Amendments of 1985 and 2004, and South Carolina Budget and Control Board guidelines, the University of South Carolina has established the following policy on minimum wage and overtime compensation.

II. Policy Statements

A. Minimum Wage

All permanent, temporary, and student employees of the University of South Carolina will be paid no less than the federal minimum wage.

B. Exemptions from the overtime pay requirements of the Fair Labor Standards Act (FLSA) for any non-student employee in a bona fide executive, administrative, professional, or computer position, as defined in the FLSA regulations, will be determined by the Vice President for Human Resources or the Vice President's designee. All other employees will be nonexempt.

C. Overtime

1. Overtime is defined as hours worked by employees in excess of 40 hours in a given period of seven consecutive days within a workweek.

2. Hours worked includes all time an employee is required to be on duty or at a prescribed workplace and all time during which an employee is permitted to work. This includes any bona fide work the employee performs on or away from the premises if the supervisor knows or has reason to believe that the work is being performed. Hours worked do not include leave time, holiday time, or other paid or unpaid leave.
3. Department heads and authorized supervisors may require an employee under their supervision to work hours in excess of the employee's regular workweek in order to meet the needs of the University of South Carolina; however, the use of overtime should be an exception to the regular work schedule in any department. Every attempt should be made to avoid the repetitive and chronic use of overtime.
4. A nonexempt employee must receive approval from the authorized supervisor prior to working in excess of 40 hours in one workweek. Nonexempt employees who engage in unauthorized overtime work may be subject to disciplinary action.

D. Workweek

1. The workweek is a regular recurring period of 168 hours in the form of seven consecutive 24-hour periods. The regular rate of pay includes all remuneration for employment paid to an employee to include base pay, longevity, and shift differential.
 - a. Each workweek stands alone for the purpose of determining overtime compensation for nonexempt employees.
 - b. The University workweek begins at 12:01 a.m. Sunday and ends at midnight Saturday.
2. Compensation of University faculty and staff employees is based on 40 hours per week, or 2080 hours per year.
 - a. The normal workweek for full-time employees is 37.5 hours.
 - b. Employees working 37.5 hours per week may not receive additional compensation or compensatory time for hours worked between 37.5 and 40 per workweek. Any employee may be required to work up to 40 hours per workweek without additional compensation or compensatory time.
3. Law enforcement personnel may be required to work a variable schedule over a 28-day work period.
4. A nonexempt employee may be allowed to work in excess of the normal workday and may be given time off during the same workweek at the rate of an hour for an

hour to avoid working over 40 hours in a workweek. This adjustment is not allowed for hours worked between 37.5 and 40 during any workweek. This type of work rescheduling precludes working over 40 hours in a workweek and eliminates the need for overtime payment.

III. Procedures

A. Overtime Compensation for Nonexempt Employees

1. Employees whose positions are nonexempt from the provisions of the FLSA are eligible for overtime compensation in the form of wages or compensatory time and will receive such compensation for all hours worked in excess of 40 in one workweek. A nonexempt employee shall be paid no less than one and one-half times his/her regular rate of pay for all hours worked over 40 in a workweek or granted compensatory time at a rate of one and one-half hours for each hour of overtime worked. For nonexempt law enforcement personnel who have a 28-day work period, overtime compensation in the form of wages or compensatory time will apply for all hours worked in excess of 171 in one work period.
2. All hours worked by nonexempt employees must be recorded on the Internet Time and Attendance Management System (ITAMS). The requirement that overtime pay must be paid or compensatory time must be granted to nonexempt employees after 40 hours of work in a workweek may not be waived by written or oral agreement between the supervisor and the employee.
3. For nonexempt employees, department heads may elect to pay overtime wages or may grant compensatory time for all hours worked in excess of 40 in a given workweek (171 hours in a 28-day work period for law enforcement personnel). The decision will be based on the work needs and budget of the department.
4. Overtime pay or compensatory time will be managed within existing campus or departmental budgets and with existing personnel.
5. Compensatory time for nonexempt employees will be accumulated at the rate of one and one-half hours of compensatory time for each hour worked over 40 hours in a workweek (171 hours in a 28-day work period for law enforcement personnel).
6. To ensure compliance with state and federal law regarding compensation, any dual employment involving a nonexempt employee must be reviewed and approved by USC's Division of Human Resources prior to beginning the secondary assignment.
7. A nonexempt employee in a slotted position who is required to work on a University holiday must record those hours on ITAMS, and will be given compensatory holiday leave credit in accordance with Section 19-708.04 of the

State Human Resources Regulations and the University Holiday Leave Policy, HR 1.15. Time worked on a holiday shall be used in computing total hours worked.

8. Nonexempt employees may accrue 240 hours of compensatory time; however, the payment of overtime wages is mandatory for all hours above 240. For law enforcement personnel, the limit is 480 hours. All compensatory leave balances for nonexempt employees will be paid at the end of each fiscal year.
9. Nonexempt employees will be paid for accumulated compensatory time upon termination of employment.
10. If a nonexempt employee is promoted or transferred to another department, the employee must be allowed to use all accrued compensatory time or be paid for all such time by the losing department prior to the employee promoting or transferring.

B. Compensatory Time for Exempt Employees

1. Employees whose positions are exempt from the FLSA are not eligible for overtime wages.
2. At the discretion of the department chair or director, exempt employees may receive compensatory time off for hours worked, for time spent traveling, or for attendance at lectures, meetings, training programs, etc., in excess of the normal workweek (40 hours per week). If granted, compensatory time must not be at a rate greater than one hour of compensatory for each hour worked in excess of 40 in a given workweek.
3. An exempt employee in a slotted position who is required to work on a University holiday will be given compensatory leave credits in accordance with Section 19-708.04 of the State Human Resources Regulations and the University Holiday Leave Policy, HR 1.15.
4. Compensatory time for exempt employees may not accumulate for more than one calendar year and may not be carried over from one calendar year to the next. Compensatory time that has not been taken by the end of the calendar year will be forfeited.
5. Exempt employees leaving University employment will not receive payment for compensatory time not taken.
6. Within the provisions listed above, it is the responsibility of each department head or director to develop procedures for the authorization and use of compensatory time for exempt employees and to keep such records as may be required to substantiate the consistent application of the department's procedures.

C. Compensable and Non-Compensable Time

1. Hours Worked

- a. Hours worked includes all time an employee is required to be on duty or on the employer's premises or at a prescribed work place for the employer and all time during which the employee is working or permitted to work for the employer. Hours worked in excess of 40 in a given workweek are compensable in the form of wages or compensatory time for nonexempt employees. For nonexempt law enforcement personnel who have a 28-day work period, overtime compensation in the form of wages or compensatory time will apply for all hours worked in excess of 171 in one work period.
- b. Hours worked do not include leave time, holiday time, or other paid or unpaid leave.
- c. Rest periods, meal periods, or breaks are not required by the FLSA; however, when breaks are given, breaks of up to 15 minutes must be counted as time worked. Breaks may not be used to allow an employee to come in late, to leave early, or to extend the lunch period.
- d. A bona fide meal period of 30 minutes or more that occurs during the scheduled workday is not hours worked if the employee is completely relieved from duty during the entire 30 minutes.
- e. When a nonexempt employee by reason of official responsibilities is required to attend lectures, meetings, training programs, etc., the time is considered hours worked.
- f. Department chairs and authorized supervisors may change the employee's regular schedule in order that the hours worked in a given workweek will not exceed 40.

2. On-Call Status

- a. A nonexempt employee who is in on-call status but is essentially free to use the time for his or her own purposes is "waiting to be engaged." Such time is not counted as hours worked for purposes of determining overtime hours.
- b. A nonexempt employee in on-call status who must remain accessible to the point that time may not be used for his or her own purposes is "engaged in waiting." Such time is counted as hours worked for purposes of determining overtime hours. Payment to an employee for being in the

on-call status of "engaged in waiting" may be made only with the prior written approval of the USC Division of Human Resources.

- c. In the event it becomes necessary for a nonexempt employee to be called back for emergency services and the services rendered require less than two hours on the job, or in the event no work is available when the employee reports, a minimum of two hours worked will be reported in ITAMS.

3. Travel Time

- a. Time spent traveling to and from the regular place of employment is not counted as hours worked.
- b. For nonexempt employees engaged in business travel that is completed in one work day, all hours spent traveling are considered hours worked regardless of time of day or day of the week.
- c. For nonexempt employees engaged in business travel that includes an overnight stay, only those hours that coincide with the employee's regular work hours are considered hours worked. This provision is applicable on regular working days as well as during the corresponding hours of non-working days.

4. Unauthorized Work

- a. Nonexempt employees may not work more than 40 hours in a workweek unless prior approval has been given by the supervisor or department chair.
- b. Nonexempt employees who engage in unauthorized overtime work may be subject to disciplinary action.
- c. Within the provisions of the FLSA and University policy, department heads are responsible for implementing reasonable management controls to assure that unauthorized overtime work is not being performed.

D. Determination of Exemption Status

- 1. The Vice President for Human Resources, or the Vice President's designee, is responsible for determining the exempt or nonexempt status of employees.
- 2. Positions must meet all of the following standards under one of the specific categories to be considered exempt from the provisions of the FLSA.
- 3. Executive Exemption

- a. The employee must be compensated on a salary basis (as defined in the regulations) at a rate not less than \$455 a week.
 - b. The employee's primary duty must be managing the enterprise, or managing a customarily recognized department or subdivision of the enterprise.
 - c. The employee must customarily and regularly direct the work of at least two or more other full-time employees or their equivalent; and
 - d. The employee must have the authority to hire or fire other employees, or the employee's suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees must be given particular weight.
4. Administrative Exemption
- a. The employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 a week.
 - b. The employee's primary duty must be the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers.
 - c. The employee's primary duty must include the exercise of discretion and independent judgment with respect to matters of significance.
5. Professional Exemption
- a. The employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 a week.
 - b. The employee's primary duty must be the performance of work requiring advanced knowledge, defined as work that is predominately intellectual in character and which includes work requiring the consistent exercise of discretion and judgment.
 - c. The advanced knowledge must be in a field of science or learning.
 - d. The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.
6. Computer Employee Exemption

- a. The employee must be compensated either on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 a week, or, if compensated on an hourly basis, at a rate not less than \$27.63 an hour.
- b. The employee must be employed as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer field performing the duties described below. The employee's primary duty must consist of:
 - i. The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specification
 - ii. The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications
 - iii. The design, documentation, testing, creation or modification of computer programs related to machine operating systems
 - iv. A combination of the aforementioned duties, the performance of which requires the same level of skills.

7. Nonexempt – Police, Fire Fighters, Paramedics & Other First Responders

The exemptions noted above do not apply to police officers, detectives, deputy sheriffs, state troopers, highway patrol officers, investigators, inspectors, correctional officers, parole or probation officers, park rangers, fire fighters, paramedics, emergency medical technicians, ambulance personnel, rescue workers, hazardous materials workers and similar employees, regardless of rank or pay level, who perform work such as:

- a. Preventing, controlling or extinguishing fires of any type
- b. Rescuing fire, crime or accident victims
- c. Preventing or detecting crimes
- d. Conducting investigations or inspections for violations of law
- e. Performing surveillance
- f. Pursuing, restraining and apprehending suspects

- g. Detaining or supervising suspected and convicted criminals, including those on probation or parole
- h. Interviewing witnesses
- i. Interrogating and fingerprinting suspects
- j. Preparing investigative reports
- k. Or other similar work.

IV. Reason for Revision

Policy revision establishes minimum hours for a nonexempt employee called back for emergency services, adopts language recommended by the State Office of Human Resources, and updates the disclaimer statement.