



UT System Administration Policy Library -- Policy INT113 **Fair Labor Standards Act – Overtime**

Responsible Officer: Associate Vice Chancellor for Employee Benefits and Services

Sponsoring Office: Office of Employee Services

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POLICY STATEMENT

The University of Texas System will comply with the overtime provisions of the Fair Labor Standards Act.

System Administration will organize its schedule of activities in such a manner that employees are not required to work over 40 hours in a workweek except when required by operating necessities or by an approved adjusted work schedule or flexible work schedule.

RATIONALE

To provide for the administration of the overtime provisions of the Fair Labor Standards Act.

SCOPE

All Offices of UT System Administration

WEBSITE ADDRESS FOR THIS POLICY

<http://www.utsystem.edu/policy/policies/int113.html>

RELATED STATUTES, POLICIES, REQUIREMENTS OR STANDARDS

UT System Administration Policies & Standards	Other Statutes, Policies & Standards
<ul style="list-style-type: none">• INT144, <i>Multiple State Employment</i>• INT129, <i>Outside Employment</i>	<ul style="list-style-type: none">• Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §§ 201-219• Texas Government Code § 659.015

CONTACTS

If you have any questions about UT System Administration Policy INT 113, *FLSA – Overtime*, contact the following offices:

Subject	Office Name	Telephone Number	Email/URL
Human Resources/ Employee Benefits	Office of Employee Services	512-499-4587	esc@utsystem.edu

DEFINITIONS

Exempt Employee

An employee who, in general, is paid at least \$455 per week, is paid on a salary rather than hourly basis, and performs the duties of a bona fide exempt executive, administrative or professional. Whether an employee is exempt depends on his or her duties, responsibilities, and salary. Job title alone does not make an employee exempt.

Fair Labor Standards Act (FLSA)

The federal law that establishes minimum wage and overtime standards for employees and regulates the employment of children

Hours worked

Hours that System Administration requires or permits an employee to work

Non-exempt employees An employee whose job duties do not fall under one of the exemptions to the overtime provisions of the Fair Labor Standards Act and is therefore covered by the Act

Workday

A 24-hour period beginning at 12:01 a.m. and ending at 12:00 midnight.

Workweek

A fixed and recurring period of seven consecutive 24-hour days which begins at 12:01 a.m. Monday and ends at 12:00 midnight Sunday.

RESPONSIBILITIES

Office of Employee Services

- Determines whether a job is exempt or non-exempt

Immediate Supervisor and/or Department Head

- Makes certain that provisions of the FLSA relating to overtime and hours worked are strictly adhered to in order to ensure fair treatment of employees and to avoid substantial penalties that may be imposed due to non-compliance
- Approves in advance an employee to work more hours than which appointed to work.
- Ensures that accrued FLSA compensatory time does not exceed the maximum limit.

PROCEDURES

1. FLSA Status

1.1 The Office of Employee Services will determine a job's FLSA status based on an analysis of the duties performed, compensation level and method of pay. Job title alone does not make a job exempt.

1.2 At System Administration, an employee paid on an hourly basis is not exempt from the FLSA's overtime provisions.

1.3 An employee's FLSA status is reflected in the Electronic Timekeeping System and the appointment detail in DEFINE.

2. Prior Approval Required

A non-exempt employee must have the prior approval of their immediate supervisor or department head before overtime may be worked. Permitting overtime to be worked is the same as ordering or authorizing it. If a supervisor is aware that a non-exempt employee works through lunch, starts early or stays late, and works more than 40 hours in a workweek, System Administration is responsible for compensating the employee for that overtime.

3. Compensation for FLSA Overtime

Non-exempt employees who are required or permitted to work in excess of forty hours in a workweek are entitled to additional compensation in one of the following ways:

- Compensatory time off at a rate of one and one-half times for all time actually worked over 40 hours in a workweek, or
- Payment for accrued FLSA compensatory overtime

3.1 FLSA Compensatory Time

Employees may be compensated for overtime by receiving FLSA compensatory time off at a rate of one and one-half times for all time actually worked over 40 hours in a workweek. Paid leave or holidays taken during a workweek do not count as hours worked in computing overtime. The following limitations apply:

- a.** Employees engaged in public safety or emergency response may not accrue more than 480 hours of FLSA compensatory time. Since FLSA compensatory time is accumulated at time and one-half, this limitation is 320 hours of actual overtime work (320 hours of overtime work x 1.5 = 480 hours).
- b.** Other non-exempt employees may not accrue more than 240 hours of FLSA compensatory time (equivalent to 160 hours of overtime work x 1.5 = 240).
- c.** Supervisors must ensure that accrued FLSA compensatory time hours do not exceed the maximum limits. Supervisors may require an employee to use their FLSA compensatory time in lieu of vacation leave to avoid exceeding the limits.
- d.** An employee who has accrued FLSA compensatory time and requests to use it must be permitted to use the time off within a reasonable period after making the request if it does not unduly disrupt the operations of System Administration. Undue disruption is not merely an inconvenience.
- e.** Supervisors may require non-exempt employees who have requested leave to use their FLSA compensatory time balances before using their vacation leave.

3.2 Payment of FLSA Overtime

A non-exempt employee may be compensated for FLSA overtime by payment at the rate of one and one-half times the employee's current regular rate of pay. The regular rate of pay includes the employee's base salary or hourly rate, longevity pay, hazardous duty pay, housing emoluments, and benefit replacement pay.

4. Payment for Accrued FLSA Compensatory Time

An employee will be paid for accrued FLSA compensatory time under the following circumstances:

a. Accrual of FLSA Compensatory Time Exceeding Maximum Limits

An employee must be paid for their accrued FLSA compensatory time when their balance exceeds the maximum accrual limits.

b. FLSA Status Change

An employee will be paid for their accrued FLSA compensatory time when the employee's FLSA status changes from non-exempt to exempt.

c. Transfer Between System Administration Departments

An employee who transfers from one department to another for any reason and has an FLSA compensatory time balance will be paid for that time by the department from which the employee transfers.

d. Annually

Departments will pay all employees for all accrued FLSA compensatory time during the fourth quarter of each fiscal year.

e. Termination or Transfer of Employment

An employee who terminates employment or transfers to another institution or state agency and has an FLSA compensatory time balance will be paid for that time. FLSA compensatory time cannot be transferred between institutions or state agencies.

5. Payment Processing

5.1 To pay an employee for FLSA compensatory time, the department submits a payroll voucher and the employee's Monthly Leave Summary to OES for review. OES will forward the payment voucher to Accounting and Purchasing Services for payment. APS will process the voucher for payment on the second semi-monthly payroll.

5.2 After the payment is processed, the department will deduct the FLSA compensatory time from the employee's balances for which the employee was paid.

6. Occasional and Sporadic Employment

An employee may choose to work for the University of Texas System or an institution on an occasional and sporadic basis in a part-time capacity such as checking tickets at a football game. If the work performed in the occasional job is substantially different from that of the employee's regular job, the hours worked in the part-time capacity are excluded in calculating overtime compensation. Also see [UTS129, *Outside Employment*](#).

7. Separate Records for FLSA Overtime and State Compensatory Time

State compensatory time and FLSA compensatory time balances are maintained separately and are not combined on timekeeping records. Records of time worked and time taken off will be maintained in accordance with the System Administration Records Retention Schedule.

FORMS AND TOOLS/ONLINE PROCESSES

[Departmental Payroll Voucher](#)

APPENDIX

None