

1. **Title**

Fair Labor Standards Act – Overtime

2. **Policy**

Sec. 1 Purpose

To establish practices for the earning and use of Federal Labor Standards Act (FLSA) Overtime as provided by law and UT System Administration.

Sec. 2 Principles

- (a) Employees will use leave appropriately to comply with policy and adhere to applicable laws, rules, and procedures.
- (b) Managers have the discretion to balance business needs in the context of the personal needs and legal rights of the employee and will:
 - 1) accommodate an employee's request to the extent practicable;
 - 2) consider the financial impact of an employee's leave request and available leave balance;
 - 3) follow applicable laws and policies;
 - 4) adhere to responsibilities set forth by UT System Administration as defined below; and
 - 5) ensure balance limits do not exceed the maximum allowable.

Sec. 3 Eligibility

Employees in a position classified as non-exempt by the Office of Human Resources. Exemption status is based on duties performed, compensation, and method of pay.

Sec. 4 General Responsibilities

- a) Employee obtains approval prior to working over 40 hours in a workweek.
- b) Employee submits leave request to use FLSA overtime to the manager prior to absence.

- c) Manager responds to leave request after considering department staffing requirements.
- d) Employee records absence from work on the electronic timesheet using the appropriate leave type.
- e) Negative leave balances are not permitted.

Sec. 5 Earning of FLSA Overtime

- a) An eligible employee who is required or permitted to work hours in excess of 40 hours in a workweek is entitled to compensation for the excess hours either as time off or, at UT System Administration's discretion, overtime pay.
- b) An employee must have prior approval from his/her manager before working hours that may result in the earning of FLSA overtime. A supervisor who permits an employee to work overtime is equivalent to the supervisor ordering or authorizing 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 40 hours in a workweek, UT System Administration is responsible for compensating the employee for that overtime.
- c) FLSA overtime is earned when hours worked in a workweek exceed 40.
 - 1) Hourly employees will receive FLSA overtime pay at a rate of 1.5 times their regular rate of pay.
 - 2) Salaried employees will receive accrued FLSA overtime leave at a rate of 1.5 hours for each hour of overtime.
- d) Occasional and Sporadic Employment. An employee may choose to work for another UT System institution on an occasional and sporadic basis in a part-time capacity (ex: 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.

e) Earning Limits.

- 1) Non-exempt employees may accrue up to 240 hours of FLSA overtime (equivalent to 160 hours of overtime work x 1.5 = 240).
- 2) Employees engaged in public safety, emergency response, or seasonal activity may accrue up to 480 hours of FLSA overtime (320 hours of overtime work x 1.5 = 480 hours).

Sec. 6 Use of Accrued FLSA Overtime

- a) FLSA overtime should be used within the fiscal year in which it was earned.
- b) 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 UT System Administration operations.
- c) To comply with earning limits or to limit the payout amount, managers may require an employee to take FLSA overtime time off in lieu of receiving accrued FLSA overtime pay. Managers may also require an employee to use FLSA overtime before vacation.

Sec. 7 Payment of Accrued FLSA Overtime

- a) Payment is calculated based on the employee's base salary or hourly rate, longevity, hazardous duty, housing emoluments, and benefit replacement pay. Payment is subject to federal withholding.
- b) Payment will occur under the following circumstances:
 - 1) FLSA Overtime Exceeds Maximum Limits. An employee must be paid all or a portion of accrued FLSA overtime when the employee's balance exceeds the maximum accrual limit in order to bring the balance into compliance with the maximum limit.

- 2) FLSA Status Change. An employee will be paid all accrued FLSA overtime when the employee's FLSA status changes from non-exempt to exempt.
- 3) Transfer Between UT System Administration Departments. An employee who transfers from one UT System Administration department to another for any reason and has an FLSA overtime balance will be paid all accrued FLSA overtime by the department from which the employee transfers.
- 4) Annually. Departments will pay all employees all of their accrued FLSA overtime no later than the fourth quarter of each fiscal year.
- 5) Separation or Transfer of Employment. An employee who separates employment or transfers to another state agency or institution of higher education and has an FLSA overtime balance will be paid all accrued FLSA overtime. FLSA overtime will not transfer between state agencies or institutions of higher education.

3. Definitions

Exempt Employee - an employee who is not covered by the overtime provisions of the FLSA.

Fair Labor Standards Act (FLSA) - the federal law (29 U.S.C. §§ 201-219) that establishes overtime standards for employees.

Hours Worked - any hours that UT System Administration requires or permits an employee to work.

Non-exempt Employee - an employee who is covered by the overtime provisions of the FLSA.

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.

4. **Related Info**

[Texas Government Code Chapter 659: Compensation, Section 659.015](#)

[Fair Labor Standards Act of 1938](#)

[Fair Labor Standards Act of 1938, Title 29 Section 553](#)

[INT143 Time and Attendance](#)

[INT144 Multiple State Employment](#)

[Regents' Rule 30201: Leave Policies](#)

5. **Responsible System Administration Office**

[Office of Human Resources](#)

6. **Contact Information**

Questions or comments should be directed to the [Office of Human Resources](#)

7. **Dates Approved or Amended**

June 1, 2004

December 9, 2009

July 19, 2011

July 1, 2013

September 8, 2017