



5.4 Overtime

Policy Statement

The Fair Labor Standards Act of 1938 (or “FLSA”) is a federal law which requires that most employees in the United States be paid at least the federal minimum wage for all hours worked and overtime pay at time and one-half the regular rate of pay, or provided compensatory time-off in the case of government employees, for all hours worked over 40 hours in a workweek. All University System of Georgia Institutions shall establish a standard forty (40) hour workweek and abide by the Fair Labor Standards Act provisions.

Employees eligible for overtime pay must maintain a record of the total hours they work each day. Reported time must accurately reflect all regular and overtime hours worked, any absences, early or late arrivals, early or late departures and meal breaks, and should regularly be submitted for verification and approval. Employees are prohibited from performing any “off-the-clock” work, which means work performed, but unreported, in time management. Employees must be compensated for all hours worked for the employer (DOL Hours Worked Fact Sheet link). Employees should review their pay check and verify correct pay for all regular and overtime hours worked each workweek. It is a violation of policy to falsify time records, or for any employee or manager to instruct another employee to incorrectly or falsely report hours worked or alter another employee’s time card to under- or over-report hours worked. Any violations of this policy should be reported immediately to the USG Human Resources Department. Employees are prohibited from working overtime or working any hours outside of the scheduled work day unless a supervisor has authorized the unscheduled work in advance. Any employee who fails to report or inaccurately reports any hours worked will be subject to disciplinary action, up to and including discharge.

Reason for policy

The federal Fair Labor Standards Act, as amended, establishes minimum wage rates, maximum work hours, overtime pay requirements, equal pay standards and child labor restrictions for employees subject to its provisions. This document establishes USG policy in areas not covered by the FLSA or in which the FLSA allows for alternative methods of compliance. The policy is not intended to conflict with or supersede any part of the FLSA. Since the FLSA takes precedence over this policy, any conflicts between the two will be resolved by complying with the federal requirements. This policy ensures consistency among University System institutions, ensures compliance with the Fair Labor Standards Act, and affords appropriate flexibility as needed at the institutional level.

Procedures

Each Institution in the University System of Georgia has responsibility to minimize overtime work to the extent possible. Overtime work shall be authorized for non-exempt employees only when the work is deemed necessary and is approved by the institutional assigned individuals authorized to make such decisions. Approved compensatory time is subject to a 240-hour maximum accumulation. Employees who have reached the compensatory time maximum must receive a cash payment for any additional overtime. Additionally, all compensatory time balances on record as of May 31 must be paid out no later than the final bi-weekly pay period in June each fiscal year. Such payment shall be at the employee’s regular earnings rate at the time the payment is made. Compensatory time earned in June will carry forward into the upcoming fiscal year.

Generally, the FLSA overtime provisions for governmental employees and this Policy maintain that:

- Compensatory time may be awarded in lieu of overtime payment; Institutions are to determine when compensatory or overtime pay is authorized. Institutions are authorized to specify that compensatory time will

be applied unless specific and advance budgetary authorization has been granted by the responsible authority for overtime payment.

- If compensatory time is provided, one and one-half hours off must be granted for each overtime hour worked. If OT payment is provided, the overtime pay must be computed at one and one half times the regular hourly rate.
- Time off for holidays, paid leave and compensatory time are not counted as hours worked in calculating overtime payments.
- Off duty time for meals is not counted as hours worked for purposes of calculating overtime payments.
- Overtime earnings, including compensatory time, must be calculated for each workweek. Hours cannot be averaged over two or more workweeks.
- Employees must be notified prior to performing overtime work that compensatory time will be provided in lieu of overtime payment; this notice requirement can be satisfied by providing employees copies of the institution's personnel policies, by including this practice in the institution's employee handbook, by conducting orientation prior to performing work and/or notification at time of hire.
- Employees terminating from the institution or transferring to a new department will receive a compensatory time payout from the department in which they earned the compensatory time. The payout will be at the employee's current rate of pay.
- Institutions should permit employees to use compensatory time within a reasonable period if the use does not unduly disrupt the institution's operations.
- Employees are required to use accrued compensatory time prior to using other leave (including annual)<USG clarification: Employees need not use compensatory time prior to using sick leave>. Institutions may consider exceptions to this provision at the end of a calendar year if an employee needs to use accumulated annual leave to reduce their annual leave balance to 360 hours by December 31 to avoid forfeiture of hours over 360. Institution managers are, however, expected to manage employee leave proactively during the calendar year to reduce if not eliminate this scenario.
- Details regarding overtime treatment during a dual employment engagement are outlined in the HRAP Dual Employment policy. (http://www.usg.edu/hr/manual/dual_appointments) Also see DOL Fact Sheet Fact Sheet #23: Overtime Pay Requirements of the FLSA. <https://www.dol.gov/whd/regs/compliance/whdfs23.pdf>

Management options

Supervisors are responsible for assigning, monitoring, and ensuring the reporting accuracy of both regular, overtime, and compensatory hours worked, and are also responsible for assessing the budgetary impact of paid overtime. The University is not obligated by law to provide compensatory time to exempt employees.

Supervisors may:

- Restructure the employee's schedule within the workweek in order to restrict the total hours worked to 40, thereby avoiding an overtime situation entirely. See the [flexible work arrangements](#) section of this policy library.
- Record the hours as actually worked and pay the employee at one and one-half times their standard rate of pay for all hours worked in excess of 40 in that workweek.
- Allow the employee to accrue compensatory time off at a rate of one and one-half hours for every hour worked over 40 in that workweek.

Policy definitions

Overtime: Time worked by a non-exempt employee above the normal forty (40) hour work week.

Workweek: A seven (7) day period in which the required working hours for full-time employees equal forty (40) hours, with distribution of such hours during the workweek a matter of scheduling left to the individual institutions.

Non-exempt employees - Employees who are covered by or subject to the minimum wage, overtime and recordkeeping provision of the federal Fair Labor Standards Act (FLSA).

Exempt employees – Employees who, are not subject to the FLSA minimum wage, overtime requirements of the law. Exemptions from the law are narrowly defined and the employer must prove that the exemption rules apply.

Reference DOL Fact Sheet 17. https://www.dol.gov/whd/overtime/fs17a_overview.htm

All non-exempt USG employees are covered by the Act. Additionally, exempt employees are subject to the record-keeping and equal pay requirements of the Act.

Responsibilities

Responsible University Administrator: Associate Vice President for Human Resources

Policy Owner: hrweb@uga.edu

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Policy Dates

Effective Date:

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Date of Approval:

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