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SUMMARY:

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

POLICY:

I. Minimum Wage and Overtime Compensation

   A. Exempt/Non-Exempt Status

      Exemptions from both the minimum wage and overtime pay requirements of the Fair Labor Standards Act (FLSA) for any employee in a bona fide executive, administrative, professional or computer position will be determined by the Director of Human Resources or designee. All other employees will be non-exempt.
B. Non-Exempt Employee

An employee who is covered by the FLSA is, therefore, subject to both the minimum wage and overtime requirements of the law.

C. Minimum Wage

All employees, including temporary and student employees, will be paid no less than the federal minimum wage.

D. Regular Rate

The regular rate of pay includes all remuneration for employment paid to an employee including but not limited to, base pay and shift differential.

E. Hourly Rate

1. The hourly rate is calculated by dividing the annual salary by 2080 hours. Compensation of covered University faculty and staff employees is based on 40 hours per week or 2080 hours per year.

F. Workweek

1. The normal workweek for the University is 37.5 hours.
   a. The University workweek begins at 12:01 a.m. Sunday and ends at midnight Saturday night.
   b. Each workweek stands alone for the purpose of determining overtime compensation for non-exempt employees, except for law enforcement personnel.
   c. The minimum workweek for full-time covered employees is 37.5 hours.
   d. Covered employees may receive neither additional compensation nor compensatory time for hours worked between 37.5 and 40 hours per week. Any employee may be required to work up to 40 hours per workweek without additional compensation or compensatory time.

2. Adjusted Workweek

   a. When circumstances warrant it, supervisors may approve a non-exempt employee 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 hours during any workweek.

b. Law enforcement personnel may be required to work a variable schedule over a 14 day work period.

c. Department heads and authorized supervisors may change the employee’s regular schedule in order to ensure that the hours worked in a given workweek will not exceed 40 and thus eliminate the need for overtime payment.

G. Compensable and Non-Compensable Time

1. Hours Worked

   a. Hourly employees are compensated for actual hours worked.

   b. Hours worked includes all time an employee is required to be on duty or at work at a prescribed workplace and all time performing duties related to the job.

   c. When a non-exempt employee is required to attend lectures, meetings, training programs, etc., such time will be considered compensable.

   d. Any bona fide work which the employee performs away from the University will be considered hours worked if the supervisor knows or has reason to believe the work is being performed.

   e. Rest periods or breaks are not required by FLSA; however, when breaks are given, such periods of short duration from 5 to 15 minutes must be counted as time worked. Breaks will not be used to allow an employee to come in late, leave early or to extend the lunch hour.

   f. Meal periods of 30 minutes or more during which the employee is completely relieved from duty are not counted as time worked.

   g. Hours worked does not include any paid or unpaid leave or holiday leave and will not be counted as compensable time for the purpose of overtime hours.
2. On-Call Status

a. A non-exempt employee who is in on-call status but who is essentially free to use the time for his or her own purpose is considered to be “waiting to be engaged.” Such time will not be counted as compensable for purposes of determining overtime hours.

b. A non-exempt employee who is in on-call status but who must remain accessible to the point that time may not be used for his/her own purposes is considered to be “engaged in waiting.” Such time will be counted as compensable for purposes of determining overtime hours.

c. Payment to an employee for being in on-call status may be made only with the prior written approval from the Office of Human Resources and Equal Opportunity (HREO).

d. Non-exempt employees will be compensated for hours worked as a result of the "call back," and this time will be counted in computing any overtime that may be due. In the event it becomes necessary for an employee to be called back for emergency services and the service rendered requires less than two hours on the job, or in the event no work is available when he/she reports, a minimum of two hours work time for each emergency call will be credited. Employees will be compensated for travel time to and from work as a result of the “call back.”

e. An employee will neither be credited with nor be paid for call back time if:

   i. The call back has been canceled and the employee received notice in advance not to report to work; or

   ii. The employee refuses alternate work that is offered upon reporting to work.

3. Travel Time

a. Time spent traveling to and from the regular place of employment will not be counted as compensable time.

b. All hours spent traveling in one day by a non-exempt employee will be compensable for purposes of determining overtime hours regardless of time of day or day of the week.
c. Non-exempt employees engaged in business travel which includes any overnight stay will account for the hours on the weekly time sheet or other approved time keeping record as follows:

i. Actual hours worked while away from the office will be recorded as they would be on a regular work day, including any hours worked outside the regular work hours.

ii. If work is required on a weekend or holiday, the actual work hours will be recorded as they would be on a regular work day.

iii. Any time spent traveling to and/or from a destination as required by the job duties will be recorded as hours worked.

4. Electronic Devices/System Access

a. Generally, it is not expected that non-exempt employees will perform University business outside of their normal work hours unless such work has been explicitly approved by their supervisors.

b. Non-exempt employees should not check or access e-mail before or after standard work hours unless directed by their supervisors.

c. When it is necessary for non-exempt employees to perform work outside of their normal work hours, they should copy their supervisors on all work-related e-mails and correspondence after hours so their supervisors can monitor time worked.

d. Non-exempt employees are required to track and report all hours worked, including time spent on cell phones, email, the internet, etc., for business purposes during and after normal work hours.

e. Non-exempt employees who work unauthorized overtime may be disciplined for doing so, but must still be paid for the hours worked.

H. Overtime

1. Hours worked by a non-exempt employee in excess of 40 hours in a given work week constitute overtime.

2. Department heads and authorized supervisors may require employees under their supervision to work hours in excess of their regular workweek in order to meet the needs of the University. The use of overtime should be an
exception to the regular work schedule. Every attempt should be made to avoid repetitive and chronic use of overtime.

3. A non-exempt employee must receive approval from his/her supervisor or department head prior to working in excess of 40 hours in a workweek.

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

I. Overtime Administration for Non-Exempt Employees
   1. Non-exempt employees are eligible for overtime compensation in the form of wages and will receive such compensation for all hours worked in excess of 40 in one workweek.
   2. Compensation for overtime is typically paid as wages.
   3. The University reserves the right, at its sole discretion, to offer overtime compensation in the form of compensatory time in the future, if deemed necessary.
   4. Overtime wages for non-exempt employees will be at the rate of 1.5 the hourly rate for each hour worked in excess of 40 hours within a workweek, with the exception of sworn law enforcement officers serving in that capacity (refer to I.5).
   5. Sworn law enforcement officers shall be paid at straight time for all hours worked up to 80 during a 14-day work period. Overtime wages for non-exempt sworn law enforcement officers (serving in that capacity) will be at the rate of 1.5 times the hourly rate for each hour worked in excess of 80 hours during a 14-day work period.
6. When an employee works over 40 hours in two or more non-exempt positions, the federal weighted formula will be used to calculate overtime.

7. Overtime compensation may not be waived nor delayed reporting by agreement between the supervisor and the employee.

8. Overtime wages will be managed within existing departmental budgets.

J. Compensatory Time for Exempt Employees

1. Employees whose positions are exempt from the provisions of the FLSA are not eligible for overtime wages.

2. At the discretion of the department head, exempt employees may be eligible to earn compensatory time on an hour for hour basis for hours worked or spent traveling on University business in excess of 40 in a given workweek. Compensatory time is not compensable at any time as wages.

3. Compensatory time for exempt employees may not accumulate for more than one fiscal year and may not be carried over from one fiscal year to the next. Compensatory time which has not been taken by the end of the fiscal year will be forfeited.

4. Exempt employees terminating from the University will not receive payment for compensatory time not taken.

5. Within the provisions listed above, it will be the responsibility of each department head to develop procedures for the authorization and use of compensatory time for exempt employees, and keep records to substantiate the consistent application of the department’s procedures.

K. Holiday Compensatory Time

1. Any eligible non-exempt employee who is required to work on a holiday shall be given holiday compensatory time at the convenience of the department within one year from the date of the holiday. For the convenience of the department, the employee must fill out the Holiday Compensatory Time Form with a proposed date of use for the holiday compensatory time credit, signed by the supervisor. The form must be received by payroll prior to the holiday so all records can accurately be maintained. All non-exempt employees who cannot coordinate a time to take or choose not to receive holiday compensatory time earned for working on a holiday within the one-year period shall be compensated for the holiday at the straight hourly pay rate of the employee. All non-exempt employees shall be compensated for all holiday compensatory time upon separation from employment.
2. Any eligible exempt employee who is required to work on a holiday shall be given holiday compensatory time at the convenience of the department within one year of the date of the holiday. It is the responsibility of the department to develop procedures for the authorization and use of holiday compensatory time for exempt employees, and keep records to substantiate the consistent application of the department’s procedures. Exempt employees shall not be paid for unused holiday compensatory time. Exempt employees shall not be paid for unused holiday compensatory time upon separation of employment.