

**UNIVERSITY OF HOUSTON SYSTEM
ADMINISTRATIVE MEMORANDUM**

SECTION: Human Resources

NUMBER: 02.B.02

AREA: Compensation

SUBJECT: Overtime and Compensatory Time

1. PURPOSE

- 1.1. The purpose of this administrative memorandum is to prescribe policies and procedures to be followed in order to comply with the overtime provisions of the Fair Labor Standards Act (FLSA), and Article V of the State of Texas General Appropriations Act.
- 1.2. It is the intention of the University of Houston System to comply with all applicable aspects of the FLSA, and the act should be referred to for clarification of specific items not covered in this AM.

2. DEFINITIONS

- 2.1. **EMPLOYEE.** An employee is any individual for whom employment records are maintained through the payroll/personnel system, and who is paid through normal payroll procedures.
- 2.2. **NONEXEMPT EMPLOYEE.** An employee occupying a position deemed to be nonexempt according to the Fair Labor Standards Act (FLSA) who is subject to the overtime provisions of FLSA.
- 2.3. **EXEMPT EMPLOYEE.** An employee occupying a position deemed to be exempt from the overtime provisions of the Fair Labor Standards Act (FLSA). Exempt status is to be determined by component-level review of job content, using the tests set forth in the FLSA and described in elsewhere in this manual.
- 2.4. **STANDARD WORKWEEK.** The standard workweek is defined at the University of Houston System to be the period beginning at 12:01 a.m. on Wednesday and extending through the seven-day period ending at midnight the following Tuesday. For the purposes of computing overtime or compensatory time, each workweek stands alone.

2.5. PAY PERIOD

- a. The pay period for nonexempt employees is biweekly and is a period of two consecutive workweeks, with certain exceptions as provided in the FLSA, in accordance with the schedule published by the payroll department at the beginning of each fiscal year.
- b. The pay period for exempt employees is monthly, beginning on the first day of the month and ending on the last day of the month.

2.6. REGULAR HOURLY RATE. For the purpose of calculating overtime for nonexempt employees, the hourly rate consists of the total of the following items:

- a. The rate per hour as recorded in the payroll/personnel system;
- b. Longevity pay (prorated hourly);
- c. Shift differential pay (prorated hourly);
- d. Hazardous duty pay for commissioned police officers (prorated hourly);
- e. Educational incentive pay for commissioned police officers (prorated hourly); and
- f. Housing emoluments (prorated hourly).

The State's contributions for social security, retirement, and insurance benefits are not included in the calculation for the regular hourly rate.

2.7. HOURS WORKED. A nonexempt employee may work as many hours as are agreed upon with the supervisor, provided overtime compensation is paid for hours worked in excess of 40 hours in a workweek or compensatory time at the rate of time and one-half is granted during the 12-month period following the workweek in which the overtime was worked. Work which is not requested by an employer but is permitted must be counted as hours worked. Vacation, holiday, sick leave, and other official leaves of absence are not counted as hours worked for the purpose of assessing overtime liability.

3. POLICY

- 3.1. It is the policy of the University of Houston System to plan, organize, and schedule its activities so that overtime work is held to only that which is absolutely necessary. In unavoidable circumstances, such as emergencies or peak load periods, nonexempt employees will be compensated for overtime work in accordance with these policies, regulations and procedures. In such circumstances, managers are responsible for planning staffing requirements to minimize overtime work.
- 3.2. All overtime work is to be authorized in advance by designated university officials, unless the Chief Executive Officer of the component reserves this authority. Employees may not make unauthorized decisions to work overtime. Working unauthorized overtime may subject the employee to disciplinary action, up to and including termination.
- 3.3. If an employee undertakes, on an occasional or sporadic basis, and solely at the employee's option, part-time employment within the University of Houston System which is in a substantially different capacity from that in which the employee regularly engages, the hours worked in the additional part-time job will be excluded in assessing hours worked for overtime purposes. Examples of such substantially different, sporadic employment are: officiating at recreation and sports events; taking of tickets; security for special events; or food and beverage sales at special events. All other hours worked within the System are to be combined for overtime purposes.
- 3.4. A person holding a full-time exempt position with the University of Houston System who on a continuing basis works extra hours in a nonexempt position with the University of Houston System will be eligible for overtime pay if the following criteria are met:
 - a. For exempt employees earning less than \$250/week, if more than 20 percent of the total hours worked in the workweek is of a nonexempt character, or
 - b. For exempt employees earning \$250/week or more, if the primary duties performed that week are nonexempt in nature. Primary is defined as "more than 50 percent."

The overtime rate for such exempt employee will be one and one-half the regular rate applicable to the nonexempt job.

- 3.5. The overtime rate of nonexempt employees who work at two or more nonexempt jobs in the same workweek is to be determined in accordance with the University's policy pertaining to overtime compensation as shown in section 4 of this policy.

- 3.6. It is the responsibility of all supervisors involved to monitor work hours of employees under their supervision and agree on the method of reporting hours worked on time sheets and payment. During an investigation by the Department of Labor, an individual agency participating in a dual employment relationship can be held liable for all hours worked by an employee for State agencies.

4. **POLICY PROVISIONS**

4.1. **COMPENSATION FOR OVERTIME - NONEXEMPT EMPLOYEES.**

4.1.1. Nonexempt employees are subject to the overtime provisions of the FLSA. Compensation for all hours worked in excess of forty (40) hours in the standard workweek shall be either:

- a. By requiring the employee to take compensatory time off during the 12-month period following the end of the workweek in which the overtime occurred at the rate of one and one-half hours for each hour of overtime worked. An employee may not accrue more than 240 total hours (in the case of employees involved in public safety, emergency response, or seasonal work, the maximum hours limit is 480) of compensatory time for overtime hours worked. Any compensatory time not taken at the end of the 12-month period following the end of the workweek in which the overtime occurred, or any compensatory time in excess of the 240 or 480 maximum allowed, must be paid at the rate when the payment is processed. The University of Houston System has the option to pay off accrued compensatory time at any time;
- b. At the discretion of the designated university official, when granting compensatory time off is impractical, pay may be granted for the overtime at a rate equal to one and one-half times the employee's regular hourly rate. Such compensation must be provided within the same pay period that the overtime is worked.

A nonexempt employee who performs two or more different kinds of work, involving two or more different regular hourly rates during a single workweek, will be paid one and one-half times the regular hourly rate established for the work performed that resulted in overtime. Such payments require the supervisor to obtain prior written agreement from the employee.

Paid leave and/or holidays taken are not counted as hours worked in determining overtime hours described in the preceding paragraph; only the hours actually worked during a workweek are counted.

- 4.1.2. In situations where a nonexempt employee has not worked more than forty (40) hours in a workweek, but the total of hours worked and hours of paid leave and/or paid holidays exceeds forty (40) hours, the employee may be compensated for the excess hours over forty either:
 - a. By allowing the employee to take, on an hour-for-hour basis, compensatory time off for the hours in excess of forty. Such hours must be taken within the 12-month period following the end of workweek in which such excess hours occurred or the hours will be forfeited; and the employee may not be paid for unused balances for such hours upon transfer or termination (the 240 and 480 maximum hours limit discussed above is also applicable here);
 - b. By paying for the hours in excess of forty on a hour-for-hour basis at the employee's regular rate of pay per hours (the special calculation of "regular hourly rate" for purposes of paying overtime at time and one-half set forth in item 2.6 of this policy is not used in this case). Such compensation must be provided within the same pay period that the excess hours are worked.
- 4.1.3. All accrued compensatory time must be cleared before an employee transfers unless by prior written agreement, the receiving department agrees to accept the liability
- 4.1.4. Compensation for overtime work may not be waived by the employee.

5. REVIEW AND RESPONSIBILITY

Responsible Party: Vice Chancellor for Administration and Finance

Review: Odd numbered years on or before August 31

6. APPROVAL

Approved: Alexander Schilt
Chancellor

Date: November 4, 1994

7. INDEXING TERMS

Compensatory time
Dual employment
Exempt employee
Non-exempt employee
Overtime