Policy Statement. The University of North Texas System Administration (System Administration) ensures that staff members are granted compensatory time or paid for overtime worked in accordance with the Federal Fair Labor Standards Act (FLSA) and the Texas Government Code.

Application of Policy. Eligible Staff Employees

Definitions.

1. **Compensatory Time**: Compensatory time is paid time off from work granted because of overtime worked.

2. **Exempt Employees**: Staff members who meet the FLSA criteria for exemption from the overtime provisions of the FLSA.

3. **Federal Overtime/Compensatory Time at One and One-half (At 1.5)**: Overtime at 1.5 is time actually worked within the workweek that exceeds forty (40) hours. Any paid leave or holidays taken are not counted as hours worked in determining overtime at 1.5.

4. **Hours Worked**: All time spent by a staff member that is primarily for the benefit of the System Administration and that is controlled or directed by the System Administration is considered hours worked. Such time includes required "on duty" time; time which an employee is permitted to work, even if not requested or required; waiting or "idle" time (rest periods, etc.); time spent traveling on official business; time spent in training directed or approved by the supervisor; time spent adjusting grievances; and, time in an on-call status where staff member is restricted to home and the on-call conditions are so restrictive that they cannot pursue personal activities.

5. **Lapsing**: The forfeiture of Overtime at 1.0 if unused by the expiration date.

6. **Non-exempt Staff Members**: Staff members who do not meet the FLSA criteria for exemption and are covered by the overtime provision of the FLSA.

7. **Regular Rate of Pay**: Pay received that includes base salary, and where applicable, night or weekend shift differential, longevity pay, hazardous duty pay, benefit replacement pay, and standby pay or other augmentations on top of base salary.

8. **State Overtime/Compensatory Time at One for One (At 1.0)**: "Overtime at 1.0" is time when the non-exempt employee has not actually worked more than forty (40) hours in a workweek but the total hours worked and hours of paid leave or paid holidays exceeds forty (40) hours.

9. **Workweek**: The System Administration defines the normal workweek as that period beginning at 12:01 a.m. on Sunday and extending through the seven-day period ending...
at midnight the following Saturday. State law sets the minimum workweek for regular full-time salaried employees at forty (40) hours.

**Procedures and Responsibilities.**

I. **Exempt Employees**

   **A. Work Schedule.** Exempt employees earn State compensatory time at one for one for each hour worked on a Board of Regents designated holiday, as governed by the *Holiday* policy 03.602. Compensatory time for exempt employees may be approved by the Chancellor/President only under extraordinary circumstances and only if total hours worked plus holiday or other paid leave exceed forty (40) hours (or the standard work hours for part-time employees) in a workweek to provide services that protect, maintain, or restore operations.

   **B. Approval.** Chancellor or President approval required.

   **C. Lapsing.** All compensatory time earned must be taken during the 12-month period following the end of the workweek earned with the exception of compensatory time earned providing emergency services during a federal or state disaster, which allows for an extended six (6) month period to take the time totaling 18 months.

II. **Non-Exempt Employees**

   **A. Work Schedule.** It is the policy of the System Administration to arrange its work schedules in such a manner that non-exempt employees are not required to work beyond their normal work schedule. However, when in management’s view it becomes necessary for an employee to work overtime, they will be compensated in accordance with the provisions of both the Federal Fair Labor Standards Act (FLSA) and the Texas Government Code.

   Departments shall consider methods to reduce or, whenever possible, eliminate the necessity for compensatory time accrual and to provide eligible staff with the opportunity to utilize compensatory time earned. These methods may include allowing the staff to use compensatory time instead of sick or vacation time, flexible scheduling, scheduling compensatory time at slow times, cross training and establishing work pools, using temporary employees or employees from other areas at the System Administration and increasing work productivity through technology or other means. Department supervisors should work jointly with their staff to explore these and other methods.

   **Approval.** Any supervisor with authority to approve an employee’s time sheet is hereby given authority to approve that employee’s overtime and compensatory time, including time worked at the employee’s personal residence. All overtime and compensatory time must be approved in advance by the department official who has the designated authority to approve overtime.

   **B. Accrual.** A non-exempt staff member is eligible to accrue both state and federal overtime in accordance with the Texas Government Code and the Federal Fair Labor
Standards Act (FLSA), as amended. Any earned overtime is automatically accrued as compensatory time and shall be used in accordance with other provisions of this policy.

1. Federal "Overtime at 1.5" is accrued when the employee actually worked more than forty (40) hours within the workweek. Any paid leave or holidays taken are not counted as hours worked in determining overtime at 1.5. This leave may be accrued up to a maximum limit of 240 hours for non-exempt employees and up to 480 hours for employees working in public safety, emergency response or seasonal activities.

2. State "Overtime at 1.0" is accrued when the employee has not worked more than forty (40) hours in a workweek but the total hours worked and hours of paid leave or paid holidays exceeds forty (40) hours.

3. Compensation for hours worked on a Board of Regents designated holiday will be governed by the Holiday policy 03.604.

C. Utilization.

1. Compensation for “State Overtime at 1.0”. Compensatory time is granted as equivalent time off (one hour for one hour), which must be taken during the 12-month period following the end of the workweek the overtime was worked with the exception of compensatory time earned providing emergency services during a federal or state disaster, which allows for an extended six (6) month period to take the time totaling 18 months.

If an employee who wishes to use accrued state compensatory time at 1.0 submits a written/electronic request for permission to use the accrued compensatory time to their department head not later than the 90th day before the date on which the accrued compensatory time will lapse, the department head shall either (1) approve in writing the employee's request; or (2) provide the employee with an alternate date on which the employee may use the compensatory time at 1.0. The employee may request permission to use the accrued compensatory time within 90 days of the date on which it will lapse, and the department head is encouraged to reasonably accommodate the employee's use of the accrued compensatory time before it lapses.

2. Compensation for “Federal Overtime at 1.5”. Compensatory time is granted as time off at one for one and one-half (1.5), for all compensatory hours under the limits on accumulation. Employees should be scheduled to take time off for accumulated compensatory time as soon as possible following the end of the workweek the overtime was worked.

3. Supervisors shall accommodate to the extent practicable an employee's request to use accrued compensatory time. Supervisors should schedule employees to use accrued compensatory time as soon as possible or within a reasonable period of time after it is earned and within a reasonable time after the employee requests to
use the compensatory time. An employee's use of compensatory time should be scheduled so as not to unduly disrupt the operations of the department.

D. **Lapsing (State Compensatory Time Only).** State compensatory time (Compensatory Time at 1.0) off must be used within 12 months (Except for emergency services personnel as provided below) of the end of the workweek in which it was earned or it lapses and is removed from the employee’s balance.

E. **State Compensatory Time (1.0) for Emergency Services Personnel.**

An exception for the use of state compensatory time exists for selected emergency services personnel who provide services during emergency situations. Emergency services personnel may be allowed to take state compensatory time during the eighteen (18) month period following the end of the workweek in which the compensatory time was accrued. The time does not lapse after twelve (12) months, but will lapse after eighteen (18) months. In situations in which it is impractical for the department to allow time off, the employee may be paid at their regular hourly salary rate for all or part of the compensatory hours accrued during the disaster in the preceding eighteen (18) months.

F. **Payment of Compensatory Time.**

1. **Compensatory Time at 1.0.** In unusual situations when the taking of compensatory time off would be disruptive to critical functions, non-exempt employees may be paid for compensatory time hours on a straight-time (1.0) basis, with the approval of the department head.

   A non-exempt staff member should use all accrued compensatory time earned at 1.0 prior to terminating employment, or in unusual situations as defined above, they may be paid in cash for accrued unused 1.0 compensatory time. State law prohibits payment for State compensatory time after termination of employment. In certain situations, with the authorization of the department head, an employee may be paid for state compensatory time that the employee earned for work directly related to a disaster or an emergency declared by the appropriate officer of the state or federal government.

2. **Compensatory Time at 1.5.** When compensatory time off for overtime earned at 1.5 is determined to be impractical and with the approval of the department head, or when the accrued compensatory leave exceeds the limits on accumulation of 240 hours (480 hours for fire and police employees), cash payment shall be made at a rate equal to 1.5 times the staff member’s regular rate of pay in effect at the time of payment.

   Exceptions to the workweek overtime calculation for hospital, fire protection, and law enforcement activities shall be made in accordance with the FLSA.

III. **Transfers and Multiple Jobs.** When an employee works two different jobs for the State of Texas, such jobs must be aggregated together to determine if overtime is appropriate. The
FLSA provides for payment of overtime to a non-exempt employee for all hours exceeding forty (40) in the workweek. This applies regardless of whether the employment is in more than one department or unit within the System Administration or is for more than one State agency or institution of higher education. The State of Texas Comptroller has issued rules for calculating overtime liability in cases of dual employment. Once forty (40) hours has been exceeded in the workweek, all employers are responsible for compensatory leave accruals and/or overtime payments. It is the responsibility of the employee to inform their supervisor that they have another job. It is the responsibility of the department head to see that the employee is compensated for all overtime worked.

However, the 1985 amendments to the FLSA provide some flexibility in handling the dual employment issue when an employee, at their option, works on an occasional or sporadic basis in a substantially different capacity from their regular job. The hours worked in the different employment are not to be included in the calculation of the overtime hours. “Occasional and sporadic employment” might typically include, but not be limited to, officiating at recreational and sports events, selling or taking tickets, food and beverage sales at special events, etc.

Compensatory leave accruals cannot be transferred from one State agency or institution of higher education to another.

A staff member should use all accrued compensatory leave before transferring from one department in the System Administration to another. Exceptions may be made if the receiving department is willing to accept the transfer of the individual's accrued compensatory leave. A promotion or transfer cannot be denied to an employee solely on the basis of their compensatory time accrual.

If a non-exempt staff member is not able to use all accrued compensatory leave prior to transferring from one System Administration department to another, and the receiving department will not accept the compensatory leave, the releasing department should pay the employee for the remaining balance at the rate in effect at the time of payment.

**IV. Annual Notification.**

The System Administration shall notify eligible employees annually of the policy on compensatory time.

**V. Recordkeeping.**

The FLSA requires that detailed time records be maintained on all covered non-exempt staff members. Such records must include for each employee the hours worked each workday and total hours worked each workweek (Section 516.2(a)(7), FLSA). Each department head is responsible for insuring that such time and attendance records are maintained on all staff members.

**References and Cross-references.**

Texas Government Code, Chapter 659.
System Administration Policy 03.604 Holidays.
Department of Labor Interpretive Bulletin, 29CFR 785.23.

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