

# FAYETTEVILLE STATE UNIVERSITY

## OVERTIME COMPENSATION

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| <b>Authority:</b>        | Issued by the Chancellor. Changes or exceptions to administrative policies issued by the Chancellor may only be made by the Chancellor. |
| <b>Category:</b>         | Employment – General  |
| <b>Applies to:</b>       | ● Administrators      ● Staff   |
| <b>History:</b>          | Revised – September 17, 2010<br>First Issued - March 21, 2001   |
| <b>Related Policies:</b> | ● <i>Compensation and Pay</i><br>● <i>Salary Administration</i> [State Personnel Manual, Section 4]                                     |
| <b>Contact for Info:</b> | Office of Human Resources (910) 672-1146  |

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### I. PURPOSE

Fayetteville State University (University) administers overtime in compliance with federal and state overtime provisions. Overtime shall be paid at a rate of time and a half for hours worked in excess of forty (40) during a workweek. This policy is established to comply with federal and state overtime provisions and to provide uniform guidelines on the accrual, use and payment of overtime compensation.

### II. ELIGIBILITY

All SPA permanent, time limited, part time, and temporary employees who are subject to the wage-hour provisions of the Fair Labor Standards Act (FLSA non-exempt) are entitled to overtime compensation. An employee's wage-hour status is based upon the FLSA exemption status of his/her position as determined by the Office of Human Resources.

### III TYPES OF OVERTIME COMPENSATION

SPA non-exempt employees are eligible for overtime compensation when such an employee works more than forty (40) hours in any work week. Unless otherwise approved by the Chancellor or Chancellor's designee, SPA employees shall receive compensatory time off (CTO) rather than paid overtime.

#### A. Compensatory Time Off (CTO)

Compensatory time off shall be the University's preferred method of compensating employees for hours worked in excess of forty (40). Compensatory

time off (CTO) is paid time off at the employee's regular rate of pay, however, the time is accrued at 1.5 hours for each hour worked in excess of 40 hours in a work week.

**B. Paid Overtime**

An eligible employee who works more than forty (40) hours in a work week may be paid for his/her overtime at the rate of "time-and-one-half" for all hours worked over forty (40). The overtime pay is determined using the employee's regular rate of pay. When this option is approved by the Chancellor or Chancellor's designee, the additional pay is to be included in the paycheck for the pay period in which the overtime was worked. Lack of funds does not relieve a department from its liability to compensate overtime work at the rate of time-and-one-half, unless compensatory time in lieu of overtime pay was selected and communicated to the employee.

**IV. DETERMINATION OF OVERTIME COMPENSATION**

In his or her sole discretion, a unit head may, based upon the operational needs of the work unit, permit or require an eligible employee to work more than forty (40) hours in any work week. Working more than eight (8) hours in a work day does not necessarily constitute overtime. Overtime occurs only after working more than forty (40) hours in a work week. The work week at the University is defined as 12:01 AM Sunday morning to 12:00 Midnight Saturday night.

Eligible employees earn time-and-one half for all hours worked in excess of forty (40) hours in a work week. Paid time that is not considered time worked (e.g., vacation, sick leave, administrative leave and most other types of leave or paid time off) does not count as time worked for the purpose of determining employee eligibility for overtime compensation.

Unit heads shall provide as much advance notice as possible of the need to work overtime so that employees can make any personal time arrangements necessary to enable them to perform the overtime work.

*Note: Some work units may require occasional or regular mandatory overtime as a condition of employment. Such a requirement should be explained to job candidates prior to an offer of hire during the recruitment and selection process.*

**V. GAP HOURS**

For SPA permanent non-exempt employees whose regular work schedule is less than forty (40) hours per work week, gap hours are those hours that are caught in the gap between the hours of work required to meet the work schedule and 40 hours during the defined work week. *For example, if a permanent part-time employee is required to work 20 hours a week, any hours worked between 20 and 40 would be considered "gap hours."*

For SPA permanent non-exempt **law enforcement** employees whose regular work schedule is twenty-eight (28) days, gap hours are those hours that are caught in the gap between 160 hours and 171 hours worked before overtime compensation begins.

Gap hours can also occur during a workweek when a SPA permanent non-exempt employee takes a holiday, civil leave, or other management approved leave that is not offset by hours worked in the same workweek. For example if a full-time employee has a holiday on Monday, but also works forty (40) hours in the same workweek as the holiday. The employee will receive eight (8) hours pay for the holiday, thirty-two (32) hours regular straight-time pay, and 8 additional gap hours compensation.)

Employees shall receive straight time pay for the gap hours worked with the provision that the University has the option of providing cash payment or CTO on an hour for hour basis for gap hours worked. The Chancellor or Chancellor's designee, shall determine the best method of compensation for gap hours worked based on consideration of availability of funds and/or organizational needs of the department. The Chancellor or Chancellor's designee shall report the compensation method used to the Office of State Personnel. Exceptions to the University's chosen compensation method must be reviewed and approved by the Office of State Personnel. The University's preferred method of overtime compensation for Gap Hours worked is CTO.

The following provisions apply to Gap Hours CTO:

- Gap hours CTO cannot be merged with regular CTO or any other compensatory leave accounts.
- There is no maximum accumulation for gap hours CTO. The University may choose to pay out accumulated gap hours CTO at any time based on availability of funds and/or organizational needs.
- Gap hours CTO shall be taken before any vacation or bonus leave. (Exceptions may be made for retirees who may need to exhaust vacation leave prior to retirement.)
- A gap hour CTO shall be taken within twelve months from the date the work is performed. If not taken within 365 days, the time shall be paid out in the next paycheck.
- If an employee separates before taking gap hours CTO, it shall be paid in a lump sum along with unused vacation.
- If an employee transfers to an SPA exempt or EPA Exempt position or to another state agency or university before taking gap hours CTO, it shall be paid in the current or next regular paycheck by the releasing agency.

## **VI. PAYOUTS & TRANSFERS**

CTO must be taken within twelve (12) months of the date in which it was accrued. If a unit head is not able to schedule the compensatory time off within this time period, the liability must be paid to the employee no later than the next pay cycle following the end of the twelve (12).

When an employee leaves the University or transfers to another University department, the department the employee is leaving must pay out all accumulated and unused CTO unless the receiving department is willing to accept all leave liabilities.

Employees whose FLSA status changes from non-exempt to exempt must be paid for all accumulated and unused CTO at the time of the status change.

## **VII. EPA and SPA EXEMPT EMPLOYEES**

Employees (both EPA and SPA) whose positions are classified as "exempt" do not earn compensatory time when they work more than forty (40) hours in a work week. Such employees are accountable for their performance outcomes, rather than for time worked. Thus, compensatory time or paid overtime is not to be accumulated, tracked, used, or paid out for FLSA-exempt employees, except as specifically mandated by state and/or University or University of North Carolina policies (such as UNC Policy 300.2.15, which requires overtime pay or equivalent compensatory time for some FLSA-exempt EPA employees who are designated as mandatory during pandemic and communicable disease emergencies).

The University recognizes there may be situations where a work unit experiences extraordinary increases in work demand and where an FLSA exempt employee must commit exceptional time and effort beyond the employee's regular work schedule. In such situations, managers may extend the opportunity for scheduling flexibility at other times that are mutually agreeable between the employee and the manager. Scheduling flexibility is just that, flexibility, and has no specific time or hour implications, entitlements, or tracking.

## **VIII. RECORD KEEPING**

Each University unit is responsible for recording all overtime and compensatory time for its SPA non-exempt employees.