



## TEXAS TECH UNIVERSITY

### Operating Policy and Procedure

#### **OP 70.17: Overtime**

**DATE:** May 4, 2021

**PURPOSE:** The purpose of this Operating Policy/Procedure (OP) is to establish policy and procedure for overtime time.

**REVIEW:** This OP will be reviewed in February of odd-numbered years by the Assistant Vice President for Human Resources and the Chief Payroll Officer for Payroll & Tax Services with substantive revisions forwarded through administrative channels to the Senior Vice President for Administration and Finance and Chief Financial Officer.

### **POLICY/PROCEDURE**

#### **1. Definition of Terms**

a. Non-exempt Employee

An employee employed in a position designated as non-exempt (N) in the Human Resources Pay Plan or an employee employed on an hourly basis. Non-exempt employees are subject to the recordkeeping of the university and are entitled to minimum wage and/or overtime pay protections of the [Fair Labor Standards Act \(FLSA\)](#).

b. Exempt Employee

An employee employed on a monthly salaried basis in a position designated as exempt (E) in the Human Resources Pay Plan. An exempt employee is exempt from the recordkeeping and overtime pay protections of the FLSA.

c. Overtime

Hours actually worked in excess of 40 in a workweek by a non-exempt employee.

d. Workweek

A fixed and regularly recurring period of 168 hours, 7 consecutive 24-hour periods, beginning at 12:00 a.m. Sunday through 11:59 p.m. on the following Saturday.

#### **2. Recordkeeping Requirements**

Each non-exempt employee is required to maintain a daily record of actual hours worked and leave hours taken in Web Time Entry or with time clock entries for each pay period during which any time is worked. The employee's supervisor is responsible for assuring that the employee complies with this requirement and will certify that the reported hours are correct.

An employee cannot be employed partially in an exempt status and partially in a non-exempt

status. An employee who works partially in a non-exempt status is considered entirely non-exempt.

An employee cannot be employed in an exempt and non-exempt capacity during the same workweek. An employee in any capacity that would normally be partially exempt and partially non-exempt loses the exemption during any workweek so employed. All hours worked in all capacities must be combined to determine compensatory time entitlements.

The [Fair Labor Standards Act](#) provides that recordkeeping and overtime violations may result in fines and/or criminal prosecution.

### **3. Overtime Work**

Each administrator is expected to plan, organize, and schedule activities in a manner that minimizes overtime work. When emergencies arise that require overtime work, non-exempt employees will be entitled to compensation for such work in accordance with the following guidelines:

- a. The employee does not determine the work schedule.
- b. An employee may not refuse an overtime assignment without a compelling reason.
- c. The number of hours worked during the workweek is the basis of determining if overtime has been worked. (See [OP 70.06, Employee Working Hours](#), sections 1.c. and 3.b. for additional information about workweeks.)
- d. Care must be taken to avoid inadvertently working an employee in excess of 40 hours if the employee is employed by the university in more than one capacity. All time worked for the university by a non-exempt employee must be combined, and total hours in excess of 40 per workweek must be compensated. It is the responsibility of each employee to inform the current department administrator prior to accepting other Texas Tech employment, and the responsibility of the administrator to avoid unintended overtime work.
- e. When a person is appointed to be paid on an hourly basis, and hours worked in excess of 40 per week are correctly submitted for the pay period, overtime will be paid on the account and at the applicable rate. When multiple jobs for the same pay period are submitted for different accounts or from different departments, overtime may first be identified as a result of combining those reports in Payroll Services.

### **4. Payment of Overtime – Non-exempt Hourly Employees**

Non-exempt hourly employees required to work extra hours on normal workdays or on non-workdays will be paid for those hours at straight time rates, provided the total hours worked during that workweek do not exceed 40 hours.

Texas Tech University and Texas Tech University System staff employees in a full-time, non-exempt employee class will accrue compensatory leave time when working more than 40 hours during the FLSA workweek. The employee will be compensated at the straight time rate for all hours worked and accrue compensatory leave for .5 of the hours worked over 40 in one workweek. Available compensatory time accruals should be taken before the end of the accrual period ending March 31 of each calendar year. Any compensatory accrual not taken before March

31 will be paid out at the current assigned hourly pay rate. At any time an employee who has accrued compensatory time leaves the current non-exempt position, the accrued compensatory time will be paid out at the current assigned hourly rate after the position move has occurred.

All other non-exempt hourly employees required to work more than 40 hours in any workweek are entitled to compensation for such overtime. The hours worked in excess of 40 will be multiplied by 1.5 and will be paid at the regular rate of pay. Any paid leave or holiday hours taken during a workweek are not counted as hours worked in determining overtime hours worked.

In situations in which the employee has not worked more than 40 hours in a workweek, but the total hours worked plus hours of paid leave and paid holidays exceeds 40 hours, the employee will receive straight time pay for the total hours of work plus the total hours of holiday and leave time.

In situations in which an employee in a full-time, non-exempt employee class has worked more than 40 hours in a workweek and has taken paid leave or paid holidays in the same workweek, the employee will be compensated at the straight time rate for all hours worked plus the total hours of holiday and leave time. The employee will accrue compensatory leave for .5 of the hours worked over 40 only in that workweek.

## **5. Accrual and Use of Compensatory Time – Exempt Employees**

a. A full-time employee employed on a monthly salaried basis in a position designated as exempt in the Human Resources Pay Plan is also exempt from overtime provisions of FLSA and is paid for the accomplishment of assigned tasks without accounting for hours worked or being entitled to overtime pay or compensatory time accrual. However, such employees may be allowed to accrue and take compensatory time off provided the department has an approved compensatory time policy and recordkeeping system.

b. In order for a policy/system to be approved it must comply with the following rules:

(1) A written procedure must be prepared by the department, reviewed by Human Resources, and approved by the appropriate vice president, the Provost, the President, or the Chancellor.

(2) Basic requirements for an acceptable system are:

(a) Preparation and approval of a record each time an exempt employee accrues or uses compensatory time; and

(b) Maintenance of a log for each covered exempt employee.

These forms are subject to audit by the Office of Audit Services and the state auditor office.

(3) Compensatory time for exempt employees is accrued at a rate not to exceed one hour for each hour actually worked in excess of 48 hours during any calendar week.

(4) Compensatory time accrued by full-time exempt employees as a result of being required to work on a national or state holiday that does not fall on a Saturday or Sunday is not covered by this policy.

- (5) FLSA exempt employees must take accrued compensatory time off during the 12-month period following the end of the workweek in which the excess hours were accrued. If an exempt employee is unable to take accrued compensatory time before the end of the 12-month period, the hours will be forfeited. An FLSA exempt employee shall not be paid for any unused compensatory time earned in this manner. Any accrued balance does not constitute a claim for reimbursement upon termination of employment or death of the employee.
- (6) Employees must take accrued compensatory time, if any, prior to taking leave without pay, except when such leave without pay is due to a workers' compensation accident or disciplinary action.

## **6. Additional Compensation**

Employees exempt from the overtime provisions of FLSA may be requested to provide consulting, outreach education, and other activities within the university that are considered to be in addition to their regularly assigned duties for which additional compensation may be paid, subject to limitations set forth in this OP. Additional compensation may not be approved for non-exempt employees. Non-exempt employees must be compensated for work in excess of 40 hours in any workweek, in accordance with normal overtime payment procedures. (See [OP 70.16, Compensation in Excess of Base Salary](#))

## **7. Place Where Work is Performed – Duty Point**

Duty point is the primary location where duties are required to be performed. No employee, whether or not subject to FLSA, may conduct Texas Tech University business during normal office hours at any location other than the employee's regular or assigned temporary place of employment unless the employee is traveling or has received prior written authorization from the Chancellor or the President to perform work elsewhere. In no event shall an employee's personal residence be deemed that employee's regular or assigned temporary place of employment or duty point without the written approval of the Chancellor or the President.

A request for exception should include the type of work to be performed, how the time and productivity will be monitored, how it meets the business needs of TTU to have this person work from home, and the duration for which the exception is being requested.

In accordance with provisions of the [Family and Medical Leave Act \(FMLA\)](#), an employee who is on FMLA leave from the university will not be granted a change of duty point.

## **8. Authoritative References**

Texas Government Code, Sections [658.010](#), [659.016](#), and [659.018](#)  
[CFR, Title 29, Chapter V](#)

## **9. Right to Change Policy**

Texas Tech University reserves the right to interpret, change, modify, amend, or rescind this policy, in whole or in part, at any time without the consent of employees.