### Hours of Work/Overtime

**Federal Requirements**

The Fair Labor Standards Act (FLSA) establishes minimum wage rates, maximum work hours, overtime pay requirements, equal pay standards, and child labor restrictions for employees subject to its provisions.

The Fair Labor Standards Act (FLSA) provides that employees in nonexempt positions be paid overtime at one and one-half (1½) times their hourly rate for any time worked in excess of 40 hours in a workweek.

**Policy**

It is the policy of South Carolina State University that overtime will be authorized only when it is necessary to meet the required services of a department. When overtime is required and authorized, all nonexempt employees shall be compensated for overtime hours worked in accordance with the provisions of the Fair Labor Standards Act.

Compensatory time off is an acceptable alternative to overtime compensation for nonexempt employees. It is University policy that unless specifically approved by the Vice President of Fiscal Affairs, compensatory time will be granted rather than overtime pay except when granting compensatory time will have a detrimental effect on the department’s services.
Procedures

It is the responsibility of each manager to ensure that nonexempt employees do not work hours in excess of their established work period unless those excess hours are approved as outlined in this policy. All requests for overtime must be submitted in writing and approved in advance by the Vice President (or applicable Division Head) and the Vice President of Fiscal Affairs. The request must clearly delineate the circumstances which require the need for overtime, the dates and times overtime hours will be worked, the FLSA exemption status of the employee and his or her hourly rate of pay.

If a nonexempt employee is approved for overtime pay by the Vice President of Fiscal Affairs, a copy of the approved request must be attached to the Time and Attendance Record (Form P-42). Requests to use leave for compensatory time must be submitted on the University’s Request for Leave (Form P-1), accompanied by a Compensatory Time Summary Sheet (Form P-46). Employees are encouraged to use accrued compensatory time prior to using other types of accrued leave.

Exempt/Nonexempt Status Under the Fair Labor Standards Act

Employees are considered “Exempt” if their job duties, or their salary, meet certain thresholds within the FLSA. These exempt employees are not subject to the FLSA minimum wage, overtime, or record keeping requirements. As such, exempt employees are expected to work as many hours as required to perform the duties of the position. The exempt status of an employee in a bona fide executive, administrative, professional, or computer employee position shall be determined by the University’s Office of Human Resources Management.

Non-exempt employees are covered by, or subject to, the minimum wage, overtime, and recordkeeping requirements of the FLSA. All employees who are not considered exempt from the FLSA will be considered non-exempt.

Overtime/Compensatory Time

Overtime is all hours worked in excess of 40 in a seven (7) consecutive day work period. A non-exempt employee shall be paid no less than one and one-half (1 1/2) times his/her regular rate of pay for all hours worked over 40 in a workweek or granted compensatory time at a rate of one and one-half (1 1/2) hours for each hour of overtime worked. Non-exempt employees, who have a scheduled workweek of 37.5 hours, shall not receive additional compensation nor compensatory time for hours worked between 37.5 and 40.0 hours per workweek.

The requirements that overtime pay must be paid or compensatory time granted to nonexempt employees after 40 hours of work in a workweek shall not be waived by agreement between the supervisor and the employee.

Compensatory time may be accumulated up to 240 hours of compensatory time. For overtime worked for an employee with an accumulation of 240 hours of compensatory time, the overtime must be paid in the employee’s next regular paycheck. Supervisors and department heads are responsible for monitoring the compensatory accrual limit and ensuring that employees do not accumulate in excess of the maximum allowable.
Overtime Usage

The use of overtime should be an exception to the regular work schedule in any unit. An employee should only be required to work overtime on an occasional basis to meet a sudden increase in the workload, to overcome productive time lost due to some mechanical failure, or to meet the demands of a crisis situation.

When any unit and/or individual is found to be consistently charging overtime, the functions of that unit and/or individual should be reviewed by appropriate management. Every attempt should be made to avoid the repetitive and chronic use of overtime.

It shall be the responsibility of each manager to determine that the provisions of this policy are administered in the best interest of the University. Although each manager is responsible for the requesting of overtime, it is equally important to control unauthorized overtime. Unauthorized work shall be counted as hours worked if the responsible manager could have stopped it but did not, or if he/she knows or has reason to know of this practice. Failure to stop such unauthorized work, failure to change the practice of working unauthorized overtime, or requiring employees to work overtime without properly reporting such overtime worked, may result in disciplinary action against responsible supervisors.

Hours Worked

Hours worked include all time that the employee is required to be on duty or at the prescribed workplace and all time during which the employee is permitted to work. The hours worked include any bona fide work which the employee performs on or away from the premises if the supervisor knows or has reason to believe that the work is being performed. Time spent in leave status is not considered hours worked.

Under warranted circumstances, a nonexempt employee may be allowed 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 40.0 hours during any workweek. This type of work rescheduling precludes working over 40.0 hours in a workweek and eliminates the need for overtime payment.

General Provisions on Hours Worked

On-call time is not regarded as work time unless an employee is required to remain at the employer’s premise or prescribed work place or is so restricted that the employee cannot use the time effectively for his or her own purposes. If the employee is not confined to his or her home or any particular place but only required to leave word where he or she can be reached, then the hours are not considered working hours.
A bona fide meal period of thirty (30) minutes or more which occurs during the scheduled workday is not hours worked if the employee is completely relieved from duty for the purpose of eating a meal. For this University, the meal period (around midday) is one (1) hour each workday.

Breaks of short duration must be counted as hours worked. One morning and one afternoon break of no more than fifteen (15) minutes each is permitted. Breaks are suggested in the interest of employee health and work efficiency; breaks are a privilege and not a right. Breaks shall not be used to allow an employee to come in late, to leave early, or to extend the lunch period.

Travel time for nonexempt employees may be hours worked under some conditions. Ordinary home-to-work travel or work-to-home travel is not working time. All time spent traveling on one-day assignments is considered time worked regardless of time of day or day of the week.

Travel away from home involving an overnight stay for nonexempt employees is considered time worked when it occurs during the employee’s normal working hours. This provision is applicable not only on regular working days, but also during the corresponding hours of non-working days.

When a non-exempt employee by reason of official responsibilities is required to attend lectures, meetings, training programs, etc., such time shall be considered work time.

Time off for holidays, paid leave, and compensatory time are not counted as hours worked when calculating overtime.

**University’s Workweek**

The normal workweek for South Carolina State University shall be 37.5 hours. However, no employees shall receive additional compensation or compensatory time for hours worked between 37.5 and 40.0 hours per workweek. For record keeping purposes, the workweek begins at 12:01 a.m. on Sunday and ends at 12:00 midnight on Saturday. Any employee may be required to work up to forty (40) hours per workweek without additional compensation.

**Compensation**

The regular rate of pay includes all remuneration for employment paid to an employee to include base pay, longevity increases, and shift differentials. Compensation of all employees is based on forty (40) hours per week or 2080 hours per year. Non-exempt employees must not be paid less than minimum wage.

**Impact of Status Change**

If a non-exempt employee accepts a position that is considered exempt either within the employee’s own agency or with a separate state agency, compensatory time must be paid prior to the employee starting in the exempt position.
If a non-exempt employee separates from employment or moves to another state agency, any accrued compensatory time must be paid. Compensatory time must be paid at a rate of compensation not less than either the average regular rate received by the employee during the last three years of employment or the final regular rate received by the employee, whichever is higher.

**Holidays**

An employee who is required to work on a legal holiday shall be given compensatory holiday leave credits in accordance with Section 19-708.04 of the State Human Resources Regulations; however, time worked on a legal holiday shall be used in computing total hours worked. Holiday compensatory time will be paid to the employee, if after 90 days of the holiday the employee has not taken the holiday compensatory time. All non-exempt employees will be paid for unused holiday compensatory time upon separation of employment or upon an employee starting in an exempt position.

**Exempt Employees and Compensatory Time**

Exempt employees must not be paid for overtime. However, they may receive compensatory time off for hours worked, for time spent traveling, or for attendance at lectures, meeting, training programs, etc., in excess of the normal workweek (40 hours per week). (NOTE: If granted, the compensatory time must not be at a rate greater than one (1) hour of compensatory time for each hour worked in excess of 40.0 in the official workweek and may be at a lesser rate.)

**Temporary Employees**

The hourly rate is the “regular rate” for temporary employees. This rate is calculated by dividing the annual salary by 2080 hours. Temporary non-exempt employees shall be compensated for all hours worked. Temporary exempt employees shall be paid a salary regardless of hours worked.