

Overtime and Compensatory Time for FLSA Non-Exempt Employees

Subject	Personnel
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100.00 Introduction and Purpose

This policy establishes procedures for administering overtime compensation and nonexempt compensatory time. In accordance with [Board of Regents Policy 708.1.1](#) Montana State University has adopted the [Montana Department of Administration's rules on overtime and nonexempt compensatory time](#) and this policy is intended to be in compliance with those rules.

200.00 Scope

This policy covers all university positions identified as nonexempt from the overtime provisions of the Fair Labor Standards Act (FLSA) and Montana law. Any [collective bargaining agreement](#) providing greater overtime or nonexempt compensatory time benefits supersedes this policy.

300.00 Eligibility

University Human Resources reviews all positions at the time of recruitment, and such other times as may be appropriate, to determine whether the position is nonexempt based upon the Fair Labor Standards Act and the overtime regulations of the Montana Department of Labor and Industry. Nothing in this policy guarantees that an employee in a nonexempt position will be allowed to work overtime.

400.00 Overtime Compensation

Employees in nonexempt positions will receive overtime compensation for the time a nonexempt employee is in a pay status exceeding forty (40) hours in a work week or in accordance with the applicable [collective bargaining agreement](#). Employees are in a pay status for hours actually worked or for annual leave, sick leave, sick leave fund grants, holidays, or compensatory time.

Overtime compensation rates are one and one-half times an employee's regular rate of pay unless the department and employee agree to the use of nonexempt compensatory time in lieu of overtime pay.

500.00 Nonexempt Compensation Time

Employees in nonexempt positions may elect to accrue and use nonexempt compensatory time instead of overtime pay.

The FLSA and state law require a written agreement be in place before allowing employees to accrue and use nonexempt compensatory time. University Human Resources will provide a [Compensatory Time Agreement](#) that may be used.

The agreement may be:

- a. part of a collective bargaining agreement when an employee is in a position covered by the collective bargaining agreement; or
- b. a memorandum of understanding with each individual employee when an employee is in a position not covered by a collective bargaining agreement.

Nonexempt compensatory time is earned at one and one-half times the regular hourly rate for each hour in a pay status in excess of forty (40) hours per week or in accordance with the applicable [collective bargaining agreement](#). Nonexempt compensatory time is recorded in half-hour (30-minute) increments and may be accumulated up to a maximum balance of ninety (90) hours (equivalent to sixty (60) hours of overtime hours worked). If the maximum balance is reached, the employee will receive overtime compensation for any overtime worked and should take steps to use the accrued compensatory time.

When administering overtime or nonexempt compensatory time, the university may:

- a. pay out, at any time, an employee's accrued nonexempt compensatory time balance at the employee's regular rate; and
- b. adjust the work schedule of an employee in a nonexempt position for a workweek to prevent the need for an employee to work overtime or to accrue nonexempt compensatory time.

If an employee in a nonexempt position moves to another department, an exempt position, or separates from the university, the employee's nonexempt compensatory time will be paid at the employee's regular rate at the time of the change.

600.00 Approval to Work Overtime

Each department determines the employee work schedules necessary to conduct its operations, subject to statutory and collective bargaining agreement provisions. The department may require reasonable amounts of overtime to meet its operational needs.

Employees may not work overtime or accrue nonexempt compensatory time without the explicit written approval of the supervisor obtained in advance. If an emergency situation arises that requires overtime, the supervisor shall give verbal approval followed up in writing as soon as possible. No employee may work overtime without approval.

700.00 Reporting Overtime

Employees must report overtime hours for each hour the employee is in a pay status in excess of the forty (40)-hour work week or as required under the applicable [collective bargaining agreement](#). Calculation of the forty (40)-hour week for employees eligible for overtime is based on time in a pay status, including any annual leave, sick leave, sick leave fund grants, holidays, or compensatory time.

If nonexempt compensatory time is approved in place of overtime, employees must report each nonexempt compensatory time hour earned and used on their timesheet. An employee who works overtime without approval and/or without reporting it may be subject to corrective or disciplinary action.