

The University of North Texas at Dallas Policy Manual	Chapter 5.000
5.018 Compensatory Leave and Overtime	Human Resources

Policy Statement. The University of North Texas at Dallas ensures that staff employees are granted compensatory time or compensated for overtime worked in accordance with the Fair Labor Standards Act (FLSA) and the Texas Government Code.

Application of Policy. This policy applies to eligible Staff Employees.

Definitions.

1. **Compensatory Time.** “Compensatory Time” means paid time off from work granted because of overtime worked.
2. **Exempt Employees** “Exempt Employees” means staff employees 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).** “Federal Overtime at 1.5” means time actually worked within the workweek that exceeds 40 hours Any paid leave or holidays taken are not counted as hours worked in determining overtime at 1.5.
4. **Hours Worked.** “Hours Worked” means all time spent by a staff employee that is primarily for the benefit of the University and that is controlled or directed by the University 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 the staff employee is restricted to home and the on-call conditions are so restrictive that they cannot pursue personal activities.
5. **Lapsing.** The forfeiture of State Overtime 1.0 if unused by the expiration date.
6. **Non-exempt Employees.** “Non-exempt Employees” means staff employees who do not meet FLSA criteria for exemption and are covered by the overtime provision of the FLSA.
7. **Occasional or Sporadic Employment.** “Occasional or Sporadic Employment” means part-time work for the university in a different capacity than the employee’s regular employment that is infrequent, irregular, or occurring in scattered instances, which may include, but is not limited to, officiating at recreational and sports events, etc.

8. Regular Rate of Pay. “Regular Rate of Pay” means pay received that includes the 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.
9. Seasonal. “Seasonal” means work during periods of significantly increased demand, which are of a regular and recurring nature.
10. State Overtime/Compensatory Time at One for One (At 1.0). “Overtime at 1.0” is time when a non-exempt employee has not actually worked more than 40 hours in a workweek, but the total hours worked and hours of paid leave or holidays exceeds 40 hours.
11. Workweek. The University 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 40 hours.

Procedures and Responsibilities.

I. Exempt Employees

- A. Compensatory Time Eligibility. 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 05.017.1. Compensatory time for exempt employees may be approved by the President only under extraordinary circumstances and only if total hours worked plus holiday or other paid leave exceed 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. 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 6-month period to take the time totaling 18 months.

II. Non-Exempt Employees

- A. Work Schedule. It is the policy of the University of North Texas at Dallas to arrange 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 within the current workweek, scheduling compensatory time at slow times, cross training and establishing work pools, using temporary employees or employees from other areas at the University and increasing work productivity through technology or other means. Department supervisors should work jointly with their staff to explore these and other methods.

- B. **Approval of Overtime and Timekeeping.** 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 worked must be approved in advance by the supervisor who has the designated authority to approve overtime.
- C. **Accrual.** A non-exempt staff employee 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 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 240 hours for non-exempt employees and up to 480 hours for employees working in a public safety emergency response, or seasonal activity.
 2. "State Overtime at 1.0" is accrued when the employee has not worked more than 40 hours in a workweek, but the total hours worked and hours of paid leave or paid holidays exceeds 40 hours.
 3. Compensation for hours worked on a Board of Regents designated holiday will be governed by the UNT Dallas Policy 05.017.1, *Holidays*.
- D. **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 6-month period to take the time totaling 18 months.

If an employee submits a written request for permission to use the accrued state compensatory time (1 for 1) to their supervisor not later than the 90th day before the date on which the accrued state compensatory time will lapse, the supervisor shall (1) approve the employee's request in writing/electronically; or (2) provide the employee with an alternate date(s) on which the employee may use the compensatory time at 1.0.

The employee may request permission to use accrued state compensatory (1 for 1) time within 90 days of the date on which it will lapse, and supervisors are 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.
- E. Lapsing (State Compensatory Time Only). State compensatory time at 1.0 (Compensatory Time at 1.0) must be used within 12 months (except for emergency services personnel as provided below) of the end of the workweek in which the compensatory time was earned or it lapses and is removed from the employee's balance.
- F. Exceptions for Emergency Services Personnel. An exception for the use of state compensatory time exists for selected emergency services personnel who provide services during emergency or disaster 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. In situations where 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 declared emergency or disaster in the preceding eighteen (18) months.

G. 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 accrued unused compensatory time hours on a straight-time (1.0) basis, with the approval of the division Vice President or designee.

A non-exempt staff employee should use all accrued compensatory time earned at 1.0 prior to terminating employment, or in unusual situations as defined above, 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 division Vice President or designee, an employee may be paid for state compensatory time that the employee earned for work directly related to a disaster or 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 division Vice President or designee, or when the accrued compensatory time exceeds the limits on accumulation, cash payment shall be made at a rate equal to 1.5 times the employee'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. Multiple Jobs and Transfers.

- A. Multiple Jobs. When an employee works two or more 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 40 in the workweek. This applies regardless of whether the employment is in more than one department or unit within the University 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 40 hours has been exceeded in the workweek, all employers are responsible for compensatory leave accruals and/or overtime payments.

1. Occasional/Sporadic Employment. The FLSA provides 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 occasional or sporadic employment are not to be included in the calculation of the overtime hours.
2. Responsibility. 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.

B. Transfer.

1. State Agency to State Agency. Compensatory leave accruals cannot be transferred from one state agency or institution of higher education to another.
2. Department to Department. An employee should use all accrued compensatory leave before transferring from one University department to another. Exceptions may be made if the receiving department is willing to accept the transfer of the individual's accrued compensatory time. A promotion or transfer cannot be denied to an employee solely on the basis of their compensatory time accrual.

If a non-exempt employee is not able to use all accrued compensatory leave prior to transferring from one University 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.

- H. Annual Notification. The University shall notify eligible employees annually of the policy on compensatory time.

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 the total hours worked each workweek (Section 516.2(a)(7), FLSA). Each department head is responsible for ensuring that such time and attendance records are maintained on all non-exempt staff employees.

- I. Part-Time Employees. Part-time non-exempt employees do not accrue state compensatory time unless the total of paid leave and hours worked exceeds 40 hours. Part-time employees who work beyond their regular scheduled hours, but

do not exceed 40 hours in the workweek, will be paid their normal hourly rate of pay for the additional work.

- J. **Military.** An employee activated to military service as a member of the reserve component of the armed forces shall be provided a statement containing the balance of the employee's accrued state compensatory time. Supervisors should accommodate an employee's request to use the balance of the employee's accrued state compensatory time before the compensatory time expires.

References and Cross-references.

Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §§ 207 and 213(A)(1)

Department of Labor Interpretive Bulletin, 29 CFR 785.23

Texas Government Code, Section 659

UNT Dallas Policy 5.017.1, Holidays

UNT Dallas Policy 5.006 Outside Employment or Service and Dual Employment

Approved: 8/30/2010

Effective: 8/30/2010

Revised: 11/15/2021