



## FAIR LABOR STANDARDS ACT (FLSA)

**Policy Title:** Fair Labor Standards Act (FLSA) Policy for Staff Personnel

**Policy Type:** Administrative

**Policy Number:** 10-02 (2015)

**Approval Date:** 05/21/2015

**Responsible Office:** Human Resources

**Responsible Executive:** Chief of Staff

**Applies to:** University Community

### POLICY STATEMENT

This policy sets forth University policy and procedures for administering the FLSA guidelines with regards to overtime payment, overtime leave accumulation, compensatory time accumulation, eligibility of staff, method of payment, and accumulation. **To ensure timely compensation to our employees who work additional hours, overtime sheets must be processed at the beginning of the next pay period immediately following the overtime assignment.**

Policy and procedures contained herein apply to all University departments employing classified or hourly personnel.

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### DEFINITIONS

**The Fair Labor Standards Act (FLSA):** Establishes minimum wage, overtime pay, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in Federal, State, and local governments.



**Norfolk State University's FLSA Workweek:** Norfolk State University's FLSA workweek is 12:01 am on Sunday and ends on midnight on Saturday.

**Overtime Hours:** Any hours worked in excess of forty (40) during a workweek by non-exempt, hourly, and classified employees. All employees must be compensated for overtime hours worked, either through overtime payment or overtime leave accumulation.

**Overtime Leave:** Leave hours granted to employees covered by FLSA who work more than 40 hours in any workweek. Only hours physically worked are used to determine if compensation for overtime is required.

**Compensatory Leave:** Paid time off for an eligible employee having worked additional hours in a workweek; having worked on an official office closing day, a holiday, or a scheduled day off; or when a holiday falls on an employee's scheduled day off.

**Exempt Employee:** An employee who is not subject to the overtime provisions of the Fair Labor Standards Act.

**Non-Exempt Employee:** An employee covered by the minimum wage and overtime requirements of the FLSA. All classified employees whose annual salaries are less than \$23,660 are non-exempt. Classified employees with salaries greater than or equal to \$23,660 are also nonexempt unless they are exempted from the requirements under Section 13, (a) or (b) of the FLSA. All hourly employees are non-exempt unless they are engaged as lawyers, physicians, teachers or computer employees paid \$27.63 or more per hour.

## **CONTACT(S)**

The Office of Human Resources officially interprets this policy. The Associate Vice President for Human Resources is responsible for obtaining approval for any revisions as required by BOV Policy # 01 (2014) *Creating and Maintaining Policies* <https://www.nsu.edu/Assets/websites/policy-library/policies/01/BOV-Policy-01-Creating-andMaintaining-Policies.pdf> through the appropriate governance structures. Questions regarding this policy should be directed to the Office of Human Resources.

## **STAKEHOLDER(S)**

University Community

## **FAIR LABOR STANDARDS ACT POLICY CONTENTS**

The Office of Human Resources is the official keeper of records for eligible personnel to receive compensatory leave, overtime leave accumulation, and overtime payment under the guidelines of the FLSA regulations set forth by the Department of Human Resource Management (DHRM) for the Commonwealth of Virginia.

The purpose of overtime is to address exceptional circumstances of an emergency or temporary nature. The compensation must be at the rate of time and one-half the hourly rate of the employee and the overtime leave must be accumulated at the rate of time and one-half the hourly rate for each hour worked in excess of forty (40) hours, during a given workweek.

Only classified employees are eligible to earn overtime leave, and they must take such leave in the same manner as annual leave. Overtime leave does not lapse after twelve months. Those employees under sponsored programs are required to take all of their leave each year, and only carry over the minimum number of hours.

Hourly employees do not qualify for overtime leave; therefore, they must be compensated for all hours worked, not to exceed 1,500 hours within a 365 day period, at the rate of straight time payment for hours worked under forty (40), and at the rate of time and one-half for all hours worked in excess of forty (40) in a given workweek. Compensatory leave, commonly referred to as compensatory time, is applied leave time which classified employees earn for working a holiday, or for certain hours worked on an hour for hour basis and must be used within a twelve (12) month period from the date earned.

**NOTE:** Exempt employees are only eligible for compensatory leave if they work on a scheduled holiday. The same procedure should be followed that is applicable for non-exempt employees.

The maximum leave that can be accumulated under the category of overtime is 240 hours ( $160 \times 1.5 = 240$ ) for regular classified staff employees and any time accumulated over and above this amount must be paid as overtime.

When an employee terminates his/her employment with the University, they will be paid for any leave balances at the employee's regular hourly rate, or his/her average regular hourly rate over the last three years of employment, whichever is higher.

All overtime and holiday work must be approved by the supervisor and department head prior to the work being performed. The supervisor and department head are responsible for ensuring the appropriate funding is available and in the appropriate funding (budget) line. The request must also be signed by the employee.

The workweek for Norfolk State University begins at 12:01 a.m. Sunday and ends at 12 midnight Saturday for all employees. An employee is to have a two day rest period which will vary depending upon the nature of the work and the department involved.

The University reserves the right to identify all classes of positions as being exempt or nonexempt. Those identified as non-exempt should qualify for overtime payment, overtime leave, and compensatory leave. Those identified as exempt do not qualify for such payment or leave accumulation.

The University may elect to grant overtime leave instead of overtime pay when an employee covered by the FLSA works more than 40 hours in any workweek. Notification must be provided, in writing, to affected employees of the decision to grant overtime leave prior to the performance of the overtime work.

Supervisors are to refrain from working any non-exempt employee overtime without obtaining approval for such overtime work. This applies to all hours of work, such as employees working through lunch hours, after closing hours of the office, or arriving early to perform some task. All requests to take leave must be made to the respective supervisor and granted by him/her prior to the leave being taken.

All compensatory leave earned and overtime leave earned must be submitted by the department to the Office of Human Resources on the Norfolk State University Classified Employees Leave Reporting Form immediately upon earning such leave with the designation of the appropriate leave code (Part V of the Leave Reporting Form). When an employee wishes to take the compensatory and overtime leave that was earned, the same forms must be submitted to the Department of Human Resources, designating the appropriate leave code (Part V). All earned leave and use of earned leave must be approved by the supervisor.

**Prior approval is required before an employee works overtime.**

Completed and approved forms submitted to the Office of Human Resources by the 1<sup>st</sup> of the month must be processed and sent to the Payroll Office no later than close of business on the 5<sup>th</sup> of the month, to be paid on the 16<sup>th</sup> of the month. Forms submitted to the Office of Human Resources by the 16<sup>th</sup> of the month must be processed and sent to the Payroll Office no later than close of business on the 20<sup>th</sup> of the month to be paid on the 1<sup>st</sup> of the following month.

**Any completed overtime form that is submitted after this timeframe will be returned to the supervisor for resubmission during the next pay period.**

**NOTE:** Employees who work during an emergency will be paid at the rate of time and one-half for hours worked over 40 or straight time for hours worked under 40. Those who request it may be granted overtime leave in lieu of overtime payment for hours worked over 40, and be granted compensatory time for those who work less than 40 hours in a workweek, but work extra hours.

## **PUBLICATION**

This policy shall be widely published and distributed to the University community. To ensure timely publication and distribution thereof, the responsible Office will make every effort to:

- Communicate the policy in writing, electronic or otherwise, to the University community within 14 days of approval;
- Submit the policy for inclusion in the online Policy Library within 14 days of approval;
- Post the policy on the appropriate SharePoint Site and/or website; and
- Educate and train all stakeholders and appropriate audiences on the policy's content as necessary. Failure to meet publication requirements does not invalidate this policy

## **REVIEW SCHEDULE**

- Next Scheduled Review: 12/12/2021
- Approval by, date: President, 05/21/2016
- Revision History: 02/01/1989, 03/13/2017
- Supersedes: Policy No 42 Personnel Policy and Procedures

## **RELATED DOCUMENTS**

1. Department of Human Resources Management (DHRM) Policies 1.25, 3.10, 3.15  
<http://www.dhrm.virginia.gov/hrpolicies>

## **FORMS**

Norfolk State University Human Resources Department Overtime Form  
<https://my.nsu.edu/faculty/payroll/Shared%20Documents/Forms/AllItems.aspx>

Norfolk State University Classified Employees Leave Reporting Form  
<https://www.nsu.edu/finance/human-resources/hr-forms>