

Compensable Time Policy

Unit: [Human Resources](#)

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Purpose

This policy is intended to ensure University of Alabama Nonexempt and Professional Nonexempt employees are compensated appropriately in accordance with the Fair Labor Standards Act and University policy.

This policy applies to all employees in the Nonexempt and Professional Nonexempt categories.

Policy

The University of Alabama is committed to compensating employees in a fair and consistent manner. The Fair Labor Standards Act (FLSA) informs The University of Alabama's compensable time policy. This federal law establishes minimum wage, overtime pay eligibility, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector, and in federal, state, and local governments. The law also differentiates between employees who are nonexempt and eligible for overtime for all hours worked over forty (40) hours in a workweek, and those who are exempt and not eligible for overtime compensation. Overtime is compensated at a rate of one and one-half times the employee's regular hourly rate. For compensation purposes, University of Alabama employees fall into one of the following three employee classifications:

- **Exempt**
Individuals in positions that meet the duty and salary criteria of the Fair Labor Standards Act and are exempt from timekeeping and overtime requirements. Employees in this category are paid a fixed salary on a monthly basis. This policy is not applicable to exempt staff.
- **Nonexempt**
Individuals in positions that do not meet the exempt duty criteria as defined in the Fair Labor Standards Act. These employees are subject to timekeeping and overtime requirements. Employees in this category are paid on a bi-weekly basis.
- **Professional Nonexempt**
Individuals in positions whose exemption status is changed to nonexempt as a result of Fair Labor Standards Act Final Rule Updates. These employees are subject to timekeeping and overtime requirements. Employees in this category are paid on a monthly basis. For the purposes of this policy, all language referencing nonexempt employees also applies to professional nonexempt employees.

Compensable Work Time

Compensable work time includes all the time an employee is required to be on duty, or on the employer's premises, or at a prescribed workplace. Work is defined as all efforts that are suffered (i.e. endured), permitted, or required by the employer, i.e., all time spent in physical or mental exertion that is controlled or required by the employer and pursued necessarily and primarily for the benefit of the employer. Work that is not requested but suffered or permitted (allowed), is still considered work time. This rule is applicable to work performed at the worksite, away from the worksite, or at home. For example, an employee may voluntarily continue to work at the end of the day or shift. The employee may wish to finish an assigned task, complete a report, or correct errors. The reason is immaterial. If the employer knows, or has reason to believe that work is continuing or there is evidence thereof, then the time is

compensable working time. The mere existence/announcement of a rule against such work is not enough to deny compensation. If a supervisor observes an employee working before or beyond the normal shift without prior authorization, the employee may be subject to disciplinary action.

FLSA Guidelines on Compensable Time Break Periods

Breaks or rest periods must be counted as hours worked if they last 20 minutes or less. Whether breaks are granted, and the length of a break, such as 5 minutes or 15 minutes, is at the discretion of the individual department. Breaks are not required by law.

At The University of Alabama, break periods may not be used to extend unpaid Bona Fide Meal Periods, to arrive at work late, or to leave work early.

De Minimis Rule

Insubstantial or insignificant periods of time outside scheduled working hours may be disregarded in recording time. This rule applies to only those times where the work involved is limited to a few seconds or minutes that cannot as a practical administrative matter be precisely recorded for payroll purposes and has no regularity in frequency. Such time is considered "de minimis," i.e., minor or trivial.

At The University of Alabama, time for non-exempt employees is recorded in quarter hours. If an employee works greater than seven (7) consecutive minutes, that time must be reported as time worked.

Meal Periods

Bona fide meal periods are not work time. During a bona fide meal period, the employee must be completely relieved from duty for the purposes of eating regular meals. Ordinarily, thirty (30) minutes or more is long enough for a bona fide meal period. The employee is not considered to be relieved of duties if the employee is required to perform any duties, whether active or inactive, while eating. For example, if an employee must sit at a desk and incidentally answer the telephone, the time would be compensable. The employee must be free to leave the duty post, but there is no requirement that the employee be allowed to leave the premises or work site. Meal periods do not include coffee breaks or time for snacks, these are break or rest periods. Meal periods are not required by law.

Nursing Mother Break Time

The Fair Labor Standards Act requires that a reasonable break time be allowed for nonexempt nursing mothers to express milk for their nursing child. The frequency of breaks needed to express milk as well as the duration of each break will likely vary. Break times may include not only time in which to express milk but also time to sanitize and store the equipment at each break. If the department is not able to provide a nursing mother with a space to express breast milk, then adequate time to travel to and from another building where an appropriate space is located must be allowed. Nursing mothers are eligible for the break for up to one year after the child's birth.

Preparatory and Concluding Activities

Preparatory and concluding activities that are an integral part of the employee's work are compensable. Examples include: turning on machinery or equipment and conducting safety checks, reporting to a duty site to receive an update on events which occurred on the previous shift, and changing into special clothes such as protective garments that are required for the job.

On-Call

An employee who is required to remain on the employer's premises or so close thereto that they cannot use the time effectively for their own purposes is working while on-call. The requirement to be available by cell phone, paging device, or other electronic device, does not automatically make an employee eligible for on-call pay. Whether hours spent on-call is hours worked will be determined by Human Resources after gathering relevant information. On-call pay may not be received simultaneously with pay for worked hours, or in conjunction with paid leave time.

If nonexempt employees are required to be on-call and the time is deemed compensable, employees will be paid for any hours they are required to be on-call at a predetermined on-call rate. If nonexempt employees are required to be on-call but the time is not deemed compensable, the department may still choose to provide a set rate of remuneration with the approval of Human Resources and the appropriate vice president. If nonexempt employees are called into work, employees should be paid using the guidelines for call-out pay.

Conferences, Training Programs, Lectures and Meetings

Time spent in conferences, training programs, lectures, and meetings generally should be compensated. If all of the following conditions are met, then it may not be considered compensable time.

1. Attendance is outside of the employee regular working hours
2. Attendance is voluntary
3. The course, lecture, or meeting is not directly related to the employee's job, and
4. The employee does not perform any productive work during such attendance

Travel

The principles that apply in determining whether or not time spent in travel is compensable time depend upon a number of variables including the kind of travel involved. As a result, departments are strongly encouraged to consult with their Human Resources Partner in advance of the travel. Typical travel scenarios include:

Home to Work Commute Time: Time spent "walking, riding, or traveling to and from the actual place of performance of the principal activity {work}" is not work time and therefore is not compensable. The use of an employer's car to travel to and from work is generally not compensable so long as the use of such vehicle is within the normal commuting area for the employer's business.

Travel All Within a Day's Work: Travel time of an employee during the workday, such as travel to and from repair sites and time spent traveling to or from a central location to receive instructions or pick up tools, must be counted as hours worked.

Home to Work on Special One-Day Assignment in Another City: If a nonexempt employee travels out of town for less than one day, the employee must be paid for all travel time, excluding travel time from home to public transportation (commuting time) and bona fide meal times.

Overnight travel: A number of factors impact the compensability of work-related trips involving overnight travel. These include but are not limited to the employee's normal work schedule, mode of transportation, whether the employee is driving or traveling as passenger, activities the employee is engaged in, and the time of day that travel occurs. Contact your Human Resources Partner for assistance in making this determination.

Employees should review the [Accounts Payable Travel Policy](#) prior to business travel.

Waiting Time

If an employee is unable to use time effectively for personal purposes while waiting for work, instructions, or preparation of the work site, then the time is considered to be working time. These instances are usually of short duration. Contact your Human Resources Partner for assistance in making this determination.

Additional Pay Practices

Call-Out Pay

When employees are called back to work unexpectedly after their regularly scheduled hours, or on their off days, they should be paid a minimum of four (4) hours at their overtime rate, or the actual overtime hours worked, whichever is greater. Call-out time/pay does not apply to Contingent/On Call employees nor does it apply to employees called in early

to their shift or who remain after their shift concludes. Should an employee be called more than once in the same four-hour period, the employee receives only one four hour minimum pay out.

Call-Out pay is not applicable during times when normal operations are suspended. Employees who are called out to work during times when normal operations are suspended will be paid only under the guidelines of the *Compensation for Non-Exempt Employees Who Work during Times Normal University Business Operations are Suspended Policy*.

Shift Differential

Shift differentials are paid to nonexempt employees who work evening and night shifts. Eligible employees are paid a shift differential rate for the entire shift for work performed on the evening or night shift based on definitions below. Shift differential is paid during all applicable periods of paid leave, such as holidays, sick leave, or annual leave for employees whose regular schedule is evening or night shift.

Shifts are defined as follows for the purpose of applying shift differential rates:

- Day shift (first shift) is that shift where 50% or more of the hours are worked between 6:00 a.m. and 6:00 p.m.
- Evening shift (second shift) is that shift where 50% or more of the scheduled hours are worked between 6:00 p.m. and 12:00 midnight.
- Night shift (third shift) is that shift where 50% or more of the scheduled hours are worked between midnight and 6:00 a.m.

In the situation where the hours are evenly divided between two shifts (50% on each shift) priority for shift differential rates will be given in the order of (1) night shift, (2) evening shift, and (3) day shift. Example: If an eight-hour shift should begin at 2:00 p.m. and end at 10:00 p.m., the appropriate differential rate for the entire shift would be that of the evening shift.

Special Event Pay

When nonexempt employees work designated special events that are held outside of their scheduled work hours, they should be paid at their overtime rate for the time actually worked at the special event. Department leadership may modify employee work schedules in order to meet the business needs of the department.

Supplemental Compensation

Nonexempt employees should not be compensated for actual hours worked through supplemental pay. Their hours should be recorded in the UA e-Time system.

Overtime and Compensatory Time

Nonexempt employees who work more than forty (40) hours in a workweek will be paid at the overtime rate of one and one-half times the number of hours worked over forty (40) in a workweek, OR will accrue compensatory time at one and one half times the number of hours worked over forty (40) in a workweek.

For the purpose of calculating overtime pay in a workweek sick leave, annual leave, other paid leaves, and other time already compensated at an overtime rate (e.g. call-out, event pay) do not count toward hours worked. Holiday leave hours will count toward hours worked for the purpose of calculating overtime.

University departments may choose to allow nonexempt employees to accrue and use compensatory time off in lieu of pay for overtime hours worked. In order to accrue compensatory time in lieu of paid overtime, both employee and supervisor must agree prior to overtime eligible work being performed.

Departments may mandate compensatory time in lieu of overtime if communicated as an initial condition of employment.

Compensatory time is subject to the following provisions:

1. Compensatory time must be credited to the employee at a one and one half time rate, the same as overtime for all hours worked over forty (40) in the same work week.
2. Compensatory time may be accrued for hours worked, to include holiday hours, over forty (40) hours in a work week or for any hours worked that would be paid at an overtime rate e.g. Call-Out, Event pay and must be recorded in UA e-Time.
3. An employee cannot accrue more than 240 hours of compensatory time.
4. When an employee has reached the maximum accrual of 240 hours of compensatory time, all additional overtime hours worked must be paid at the overtime rate of one and one half times the employee's regular rate of pay.
5. Employees who have requested the use of compensatory time should be permitted to use such time within a reasonable period after making the request if use of the time does not unduly disrupt the operations of the unit.
 - a. **Reasonable period** - Whether a request to use compensatory time has been granted within a "reasonable period" will be determined by considering the customary work practices within the employer based on the facts and circumstances in each case. Such practices include, but are not limited to (a) the normal schedule of work, (b) anticipated peak workloads based on past experience, (c) emergency requirements for staff and services, and (d) the availability of qualified substitute staff.
 - b. **Unduly disrupt** - Mere inconvenience to an employer is insufficient reason to deny an employee's request to use compensatory time. For the employer to turn down a request from an employee for compensatory time off requires that it should reasonably and in good faith anticipate that it would impose an unreasonable burden on the employer's ability to provide services of acceptable quality and quantity for the public during the time requested without the use of the employee's services.
6. An employee who has accrued compensatory time off may be required to use the compensatory time after receiving notice to do so.
7. In the event an employee's nonexempt status changes to exempt, compensatory time must be used prior to the effective date of the change or be paid out.
8. Upon separation of employment from the University, compensatory time must be paid in a lump sum and may not be used as creditable service or to adjust the last day worked by an employee.

Work Schedules

The establishment of and changes to employee work schedules is the responsibility of departmental leadership. Departmental leadership can adjust employee schedules to meet the business needs of the University and to manage payroll costs. Supervisors should provide advance notice regarding schedule changes whenever possible.

Nonexempt employees should not work overtime without the prior knowledge and approval of departmental leadership. Employees who perform work outside of normally scheduled hours without prior supervisor approval must still be compensated for all hours worked. Employees who violate established departmental scheduling or overtime guidelines may be subject to disciplinary action.

Record Keeping

Nonexempt employees are responsible for recording all hours worked and any leave taken in The University of Alabama's timekeeping system, UA e-Time. Employees are to provide a complete and accurate accounting for all hours worked and leave used during each bi-weekly reporting period. If an employee either forgets to or is otherwise unable to input worked time into the system, the employee should provide the supervisor with details regarding the time worked so that it can be recorded and compensated appropriately.

An employee's timesheet must be verified and approved by the employee's supervisor or the supervisor's designee. A supervisor or designee's approval of a timesheet certifies that, to the best of their knowledge, the information provided

in the timesheet is true and correct. Any changes made to the timesheet by the supervisor must be communicated to the employee to ensure that the changes reflect a complete and accurate record of all the time worked.

Compliance with the Fair Labor Standards Act (FLSA)

The FLSA authorizes the Department of Labor (DOL) to investigate and gather data concerning wages, hours, and other employment practices by auditing employer records and interviewing employees and employers. Each department at The University of Alabama is responsible for ensuring and maintaining compliance with the FLSA for their employees. In addition to payment of unpaid wages due employees, the DOL can assess fines for violations, be they willful or not.

Neither employees nor the University may waive their rights or obligations under the FLSA or agree to accept less or pay less than the required overtime rate.

Scope

This policy applies to all employees in the Nonexempt and Professional Nonexempt categories.

Office of the Vice President of Financial Affairs

Signed:  4/2/2018
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