Policies for All Staff and Temporary Employees

Overtime Pay for Staff and Temporary Employees

AFSCME(BL, IN, SB) 6.2 • CWA 5.3 • PA/SS 4.4 • Police(BL, IN, NW, SB, SE) • Temporary 4.2

Effective: May 16, 2010
Last Updated: December 7, 2012

Responsible University Office: University Human Resources

Responsible University Administrator: Senior Vice President and Chief Financial Officer

Policy Contact: University Human Resources

A. Scope

This policy applies to Staff and Temporary employees who are covered by federal Fair Labor Standards Act (FLSA) overtime pay provisions, including Support, Service, and Professional Overtime Staff and all Temporary employees.

B. Policy Statement

1. The Fair Labor Standards Act (FLSA) requires that covered employees receive overtime pay for work over 40 hours in a workweek. All Support, Service, and Professional Overtime (PAO and PAU) Staff and all Temporary employees are covered by the FLSA overtime pay provisions. Professional Exempt (PAE) Staff are not covered by FLSA overtime provisions and are not eligible for overtime pay under University policy.

2. For Support, Service, and PAO Staff employees, overtime pay must be compensated at a time and one-half rate in the form of extra pay or compensatory time-off. It is management’s choice as to which form of overtime pay is used and the decision should be announced to the employee before the overtime is worked. For covered PAU Staff, overtime pay must be compensated at an additional half time rate in the form of extra pay. Compensatory time-off does not apply to PAU Staff.

3. For Temporary employees, overtime pay must be compensated at a time and one-half rate in the form of extra pay. Compensatory time-off does not apply to Temporary employees.

4. Except for the paid time-off categories below, paid time off, such as vacation, PTO, sick time, Income
Protection, and compensatory time off, does not count as part of the 40 hours in a week to determine if overtime pay is applicable and the amount of overtime pay that is due.

5. The following five categories of paid-time-off do count as part of the 40 hours in a week to determine if overtime pay is applicable and the amount of overtime pay that is due.
   a. Adverse Weather (WTH)
   b. Adverse Working Conditions (ADW)
   c. Emergency Rest Time (ERT)
   d. Holiday (including HOL and HTK)
   e. Injury with pay (INJ)

6. It is the responsibility of supervisors to plan and schedule work of employees covered by FLSA provisions so that it can be performed within the regularly scheduled hours and that overtime will occur only when absolutely necessary. Employees must have supervisory permission to work overtime.

7. Although mandatory overtime is discouraged, it is expected that employees will accept reasonable assignments to work overtime except where cases of personal emergency exist. It is the employee’s responsibility to bring to the supervisor’s attention the nature of a personal emergency so that the supervisor can make a decision to require the overtime work or not.

C. Reason for Policy

The Fair Labor Standards Act is complex with a long history of federal regulations and rulings written to explain and aid in the application of the act. This policy provides University managers and supervisors with directions necessary to comply with overtime pay provisions of FLSA.

D. Procedures

1. Assigning overtime work for Support, Service, and Professional Overtime (PAO and PAU) Staff and Temporary employees
   a. When overtime work is scheduled in advance, departments should:
      i. Schedule qualified Staff employees so that they rotate turns having the opportunity to work the hours; and
      ii. Schedule qualified Staff employees according to their seniority within an occupational unit.
      iii. This provision does not apply when the assignment is for time immediately before or after the Staff employee’s regular hours and the work is the continuation of the employee’s regular work assignment.
      iv. As a general rule, employees in the CTC program on the Bloomington campus will not be assigned to work scheduled overtime until all qualified appointed SM employees in the unit
have been asked to work. This provision shall not apply to continuation overtime i.e., overtime that occurs before or after an employee's regular scheduled shift.

v. Departments may have other overtime assignment arrangements for which there are long-standing practices and mutual, written agreements between management and a union which are recognized by the parties.

b. All qualified Staff employees in an occupational unit will be provided the opportunity to work the overtime before the assignment is offered to a Temporary employee for whom the assignment would be overtime.

c. When selecting a Staff or Temporary employee to work the assignment, it is the department's prerogative to determine whether an employee is qualified and can satisfactorily perform the required work.

2. Paid time-off that counts toward overtime pay for Staff employees

a. The following five categories of paid-time-off count as part of the 40 hours in a week to determine if overtime pay is applicable and the amount of overtime pay that is due.

i. Adverse Weather – Used only when the administration closes a campus due to adverse weather.

ii. Adverse Working Conditions – Used only when a Chancellor, Provost, or Vice President closes all or part of a campus due to adverse working conditions.

iii. Emergency Rest Time – Used only for Service Maintenance Staff employees at Bloomington who have worked for more than 16 continuous hours and who are required to take time off from work immediately after the emergency has ended to insure an adequate break from work for safety purposes.

iv. Holiday – Used whenever any holiday time is taken, including on the day observed (HOL) and at a later time (HTK). Campus Holiday is included.

v. Injury with pay-1st 7 days – Used to cover the time when the University is paying the employee’s full salary during the first seven calendar days of the injury. This benefit is limited to a total of 40 hours of INJ time per year. The other injury related time off codes will not count towards overtime.

b. All other categories of paid time off do not count as part of the 40 hours in a week to determine if overtime pay is applicable.

c. When an employee uses paid time off applied to any of these other categories (vacation, sick, PTO, etc.), there may be hours worked outside of the employee’s regular schedule that do not qualify to be paid as overtime. These hours worked will be compensated at a straight time rate either in the form of pay or compensatory time off at the department’s choice. Two new payroll codes have been developed to use for these hours:

- NEP  Non-overtime eligible pay
- NEC  Non-overtime eligible comp time (no pay)
d. In units that permit flexible or alternate work schedules, adjustments may occur in the number of hours applied to time off. If a department has given the employee a flexible scheduling option or an arrangement is made prior to taking the time off the amount of time applied to vacation, sick, PTO or absent without pay time may be reduced so that the total of time off and time worked equals 40 hours with no NEP or NEC time.

3. Compensation for overtime work for Support, Service, and PAO Staff
   a. Support, Service, and PAO Staff must receive overtime compensation for hours worked in excess of 40 hours in a week. The overtime compensation shall be at a time and one half rate either in the form of pay or compensatory time off. Compensatory time off is subject to the rules contained in paragraph D.6. below.
   
b. The rate used to determine the time and one half rate will be calculated to include any temporary pay, bonus pay, or other pay that the employee received during the week in which the hours over 40 were worked.

4. Compensation for overtime work for PAU Staff
   a. Staff classified as Professional Salaried-Overtime-Eligible (PAU) must receive compensation for hours worked over 40 in a week at a rate equal to half time the rate for the work performed. This compensation must be in the form of additional pay. Compensatory time off does not apply to PAU Staff.
   
b. The rate used to determine the half time rate will be adjusted upward to include any temporary pay, bonus pay, or other pay that the employee received during the week in which the hours over 40 were worked.

5. Compensation for overtime work for Temporary employees
   Temporary employees receive overtime pay at the rate of time and one half for the overtime work performed for hours worked in excess of 40 hours per workweek. Compensatory time off does not apply to Temporary employees.

6. Rules related to compensatory time off for Support, Service, and PAO Staff (Compensatory time off does not apply to PAU and Temporary employees)
   a. Support and Service Staff employees should not accumulate more than 80 hours of compensatory time.
   
b. Staff classified as Professional Overtime Eligible (PAO) should not accumulate more than 160 hours of compensatory time.
   
c. The campus human resources office may approve higher accumulations for unusual circumstances that are in the University's best interest, up to the FLSA mandated limit of 240 hours.
   
d. Unless a campus has established a different procedure, when the maximum accumulation has been reached, payment at a rate of pay equal to one and one-half the regular rate for the work performed is the only option until the accumulated compensatory time drops below the limit, and a department may also convert accumulated compensatory time to pay at any time.
      i. For Support Staff at Bloomington and Northwest, all compensatory time off accumulated by an
employee in excess of 80 hours on November 1st will be paid in the first pay period following November 1st. At this time, employees may choose to be paid for any accumulated compensatory time between 40 and 80 hours.

ii. For Service Maintenance Staff at Bloomington, any compensatory time off accumulations in excess of 80 hours at the start of the first pay period after January 1st shall be paid or scheduled off at the discretion of the department.

e. Accumulated compensatory time off may be taken whenever it is mutually agreeable with the employee and the supervisor. See the Family and Medical Leave Act (FMLA) Rights policy for the provisions related to the use of compensatory time during an FMLA covered absence.

f. When an employee promotes, demotes or transfers to another department or to a position in the same department not eligible for overtime compensation, any accumulated compensatory time must be granted as time off or pay before the move.

7. Finishing up time at the end of a workday for Support, Service, Professional Overtime Staff and Temporary employees

   a. At the end of a workday, employees occasionally need less than 15 minutes to complete their duties. Employees may be compensated for this time by allowing them to arrive to work late or leave work early, on another day of the same workweek. The late arrival or early departure time must not exceed the finishing up time.

   b. When finishing up time results in more than 40 hours being worked in the workweek, the excess is recorded as overtime at the end of the workweek.

8. Secondary employment for Support, Service, and PAO/PAU Staff and Temporary employees

   a. A full or part-time Support, Service, and PAO/PAU Staff employee may be employed as a Temporary employee in another department and a Temporary employee may have multiple temporary jobs.

   b. The compensation for overtime when an employee has more than one job will be based on a weighted average calculation for each week of work. This calculation uses the rates of all jobs for which work time was recorded during the week.

   c. For Staff employees with temporary jobs, the overtime will be applied to the time worked in the Temporary job first. Overtime will only be applied to the Staff job when time worked in the Staff job exceeds 40 hours in the week.

   d. For Temporary employees with multiple temporary jobs, the overtime will be applied to the job or jobs worked after exceeding 40 hours of work in the week.

9. Overtime for supervisory staff

Employees whose responsibility is primarily supervisory should not work overtime-nor assign themselves to work overtime unless the supervisory function is required for the overtime work. If sufficient Support or Service Staff are not available, a GS Staff member may be scheduled to perform the required work.

10. Departmental and employee responsibilities

   a. Departments are responsible for:
i. Maintaining records of overtime worked and compensatory time earned and used.

ii. Reporting overtime worked and compensatory time earned and used on the university provided records.

b. Employees are responsible for:
   i. Obtaining supervisory authorization before working any overtime.

   ii. Keeping an accurate record of actual time worked. Time is to be recorded daily or weekly as provided for on the university provided records.

E. Definitions

1. The University's workweek is defined as beginning and ending at 12:00 midnight on Saturday.

2. Overtime is defined as hours worked in excess of 40 hours in a workweek.

F. Sanctions

Managers, supervisors, and employees who violate this policy are subject to disciplinary action, up to and including termination.

G. Web Address for this Policy

hr.iu.edu/policies/uwide/overtime.html

H. Related Information

Work Time and Record Keeping for Support and Service Staff and Professional Staff who are Eligible for Overtime hr.iu.edu/policies/nonunion/4.0/4.3.html

Alternative Work Schedules hr.iu.edu/policies/nonunion/4.0/4.5.html

Examples of Overtime Calculations hr.iu.edu/policies/OT_Examples.pdf

I. History

The Fair Labor Standards Act (FLSA) was originally passed in 1938 and has been amended numerous times since then. In addition to regulations on overtime pay, the FLSA establishes minimum wage, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in Federal, State, and local governments.

J. Additional Contacts