

HORRY-GEORGETOWN TECHNICAL COLLEGE

# PROCEDURE

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Related Policy: 3.2.4  
Title: Overtime Procedure  
Responsibility: Vice President, Human Resources and Employee Relations

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President

## DISCLAIMER

**PURSUANT TO SECTION 41-1-110 OF THE CODE OF LAWS OF SC, AS AMENDED, THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY.**

The requirements of these procedures apply to all employees of Horry-Georgetown Technical College except those employees who may qualify for exemption by meeting all of the pertinent tests relating to duties, responsibilities, and salary as stipulated in requirements of this policy and Fair Labor Standards Act (FLSA) for any employee in a bona fide executive, administrative, or professional position or eligible because of other applicable exemptions. Such exemptions for College employees shall be determined by the VP for Human Resources and Employee Relations and subject to review and/or audit by the System Office Human Resource Services to ensure compliance with Federal, State law, policies, and procedures. All other employees shall be non-exempt. Non-exempt employees are covered by, or subject to, the minimum wage, overtime, and record keeping requirements of FLSA.

## Exempt/Nonexempt Status Under the Fair Labor Standards Act

Employees are considered "Exempt" if their job duties and their salary meet certain thresholds within the FLSA. Exempt employees are not subject to the FLSA minimum wage, overtime or recordkeeping requirements. The exempt status of an employee in a bona fide executive, administrative, professional, or computer employee position shall be determined by the College Human Resources Office. All other employees shall be non-exempt. Non-exempt employees are covered by, or subject to, the minimum wage, overtime, and record keeping requirements of FLSA.

## **I. Overtime Defined**

Overtime is defined as all hours worked in excess of forty (40) hours during the established FLSA workweek. The use of overtime should be an exception to an employee's regular work schedule and should only be required on an occasional basis.

- A. The FLSA workweek is a regular recurring period in the form of seven (7) consecutive twenty-four (24-hour) periods or 168 consecutive hours, beginning 12:00 midnight on Saturday and ending 12:00 midnight Friday.
- B. The non-exempt employee may be allowed to work in excess of the normal workday and be given time off during the same FLSA workweek on an hour-for-hour basis to avoid working over 40 hours in a standard FLSA workweek and thus eliminate the need for compensatory time. This adjustment is not allowed for hours worked between 37.5 and 40 hours during any workweek.

## **II. Basis for Compensation**

Compensation of all employees is based on forty (40) hours per week or two thousand eight (2080) hours per year. By adoption of this policy, provisions for the (40) hour standard workweek are incorporated in each position description as if fully stated therein. All non-exempt employees must be paid not less than the current minimum wage.

- A. The normal full-time workweek for all employees of Horry-Georgetown Technical College is thirty-seven and one-half (37.5) hours.
- B. Additional compensation may NOT be paid for hours worked between thirty-seven and one-half (37.5) and forty (40) hours per week.
- C. Compensatory time off may NOT be granted for hours worked between thirty-seven and one-half (37.5) and forty (40) hours per week. Any employee may be required to work up to 40 hours per week without additional compensation.

## **III. Approval and Budgetary Constraints**

Overtime shall not be authorized unless there is an absolute need to meet a deadline that could not be met during the normal workweek, to overcome productive time lost due to mechanical failure or to meet the demands of a crisis situation. Any overtime is subject to the following conditions:

- A. Overtime worked by a non-exempt employee must have the prior approval, in writing, of the appropriate vice president.
- B. Overtime costs must be managed within the existing budget.

- C. Overtime or compensatory time may not be waived by agreement between the supervisor and the employee.
- D. Unauthorized overtime must be compensated.
- E. Unauthorized overtime may result in disciplinary action for managers and/or employees.

#### **IV. Compensatory Time and Monetary Payment**

Non-exempt employees who work more than forty (40) hours during the standard FLSA workweek will be compensated by the following method.

- A. Monetary Compensation (Pay). Such monetary compensation (pay) will only be given after approval by the appropriate vice president. When monetary compensation (pay) is granted it will be paid at the rate of one and one-half (1 ½) times the employees regular rate of pay for all hours worked over forty (40) within the established FLSA workweek. The regular rate includes all remuneration for employment paid to an employee to include base pay, and all compensation not included in the base pay as outlined in the State Human Resources Regulations, with the exception of discretionary bonuses. The hourly rate of pay is calculated by dividing the annual salary plus longevity increases by 2080 hours and adding on the appropriate shift differential hourly rate.
- B. Compensatory time will be granted in lieu of payment at the rate of one and one-half (1 ½) times (X) the hours worked over forty (40) hours. Except for situations that create severe scheduling problems for the agency, compensatory time will be the method of compensation.
  - 1. Compensatory time accrued must be taken within ninety (90) days of the date earned. If compensation is paid to an employee for accrued compensatory time off, such compensation shall be paid at the regular rate earned by the employee at the time the employee receives such payment.
  - 2. In addition to the ninety (90) day limit, employees will be allowed to accrue only up to two hundred forty (240) hours of compensatory time before any monetary payment is made. Any additional overtime hours worked over the two hundred forty (240) hour threshold will be monetarily compensated at the rate of one and one-half (1-1/2) times (X) the employee's regular rate. The overtime must be paid in the employee's next regular paycheck.
  - 3. Management may require employees to take compensatory time at a time that does not unduly disrupt the operation of the College.

4. Holiday compensatory time will be granted in accordance with Section 19-708.04 of the State Human Resources Regulations and SBTCE Procedure 8-3-108.1 [Holidays]. Time worked on a legal holiday shall be used in computing total hours worked. Holiday compensatory time will be paid to college employees who are not allowed to take the time earned for working on a holiday within one year from the date of the holiday, or 90 days in the case of System Office employees. All non-exempt employees will be paid for unused holiday compensatory time upon separation of employment from State government, movement to a position in another State agency (whether the new position is exempt or non-exempt), or upon an employee starting in an exempt position in the current agency. Exempt employees shall not be paid for unused holiday compensatory time under any circumstances.

## **V. Definition of Hours Worked**

Hours worked includes all time that an employee is required to be on duty or at the prescribed work place and all time during which an employee is permitted to work. This includes any bona fide work, which the employee performs on or away from the premises if the supervisor knows or has reason to believe that the work is being performed. Even if not approved, unauthorized work shall be counted as hours worked if the supervisor could have stopped the work but did not, or if they know or has reason to know of the work performed. Specific items related to hours worked are as follows:

- A. If any employee who is on call is not confined to their home or any particular place, but is required only to leave word where they may be reached, the hours spent on call are not regarded as working time.
- B. A bona fide meal period (a minimum of 30 minutes uninterrupted) which occurs during the scheduled workday is not hours worked if the employee is completely relieved from duty for the purpose of eating a regular meal.
- C. Rest period or breaks of short duration are not required, but if given must be counted as hours worked. Short duration is defined as no more than fifteen (15) minutes during the morning and no more than fifteen (15) minutes during the afternoon each workday. Breaks shall not be used to allow an employee to come in late, to leave early, or to extend the lunch period.
- D. Travel time for non-exempt employees may be hours worked under some conditions. Ordinary home to work travel or vice versa is not considered time worked regardless of the day of the week. All time spent traveling on one day assignments is considered work hours regardless of the day of the week and the time of day it occurs. When away from home (overnight), travel time is considered time worked only when it cuts across the employee's normal working hours. This is applicable on both regular workdays and corresponding hours of non-work days.

- E. When a non-exempt employee by reason of official responsibilities is required to attend lectures, meetings, training programs, etc., such time will be considered work time.
  - F. The hours a non-exempt employee works (1) in a different capacity, (2) occasional or sporadic, (3) as extensions of normal work duties and (4) other state agencies are eligible for overtime compensation based on the total number of hours worked per week for the State of SC.
  - G. Employees on any leave status will not be considered as working in computation of total hours worked.
- H. Volunteers

Time spent as a volunteer is not included in hours worked. An employee may volunteer services for an agency or a political subdivision of the State, if a) the individual does not receive compensation, paid expenses, benefits, or a nominal fee for services for which the individual volunteered, and b) such services are not the same type of services for which the individual is employed to perform for such public agency. An employee of a public agency which is a state, political subdivision of a state, or an interstate governmental agency may volunteer services for any other state, political subdivision, or interstate governmental agency including a state, political subdivision or interstate governmental agency with which the employing agency has a mutual aid agreement.

## **VI. FLSA Status Change**

If a non-exempt employee accepts a position that is considered exempt either within the System Office/college or with a separate state agency, compensatory time must be paid prior to the employee starting in the exempt position.

If a non-exempt employee separates from employment or moves to another state agency, any accrued compensatory time must be paid. Compensatory time must be paid at a rate of compensation not less than either the average regular rate received by the employee during the last three (3) years of employment or the final regular rate received by the employee, whichever is higher.

## **VII. Temporary Employees**

The hourly rate is the "regular rate" for non-exempt temporary employees. Non-exempt temporary employees shall be compensated for all hours worked. All System Office temporary employees are considered as non-exempt.

## **VIII. Record Keeping**

Weekly time records shall be kept in accordance with FLSA. These records must record the daily hours worked and the total hours worked during the standard FLSA workweek.

The College must maintain the following information for non-exempt employees:

- A. Employee's Full Name and Social Security number;
- B. An address including zip code;
- C. Date of birth if under 19 years of age;
- D. Gender and occupation;
- E. Employee workweek, including time of day and day of week on which the employee's workweek begins;
- F. Regular hourly rate of pay for any week when overtime is worked and overtime pay is due;
- G. Hours worked each workday and total hours worked each week;
- H. Total daily or weekly straight-time wages for all hours worked;
- I. Total overtime-excess compensation for the workweek;
- J. Total additions or deductions from wages each pay period;
- K. Total wages paid each pay period;
- L. Date of payment and pay period covered; (29 CFR 516.2)
- M. The number of hours of compensatory time earned each workweek, or other applicable work period, by each employee at the rate of 1 ½ hours for each overtime hour worked;
- N. The number of hours of such compensatory time used each workweek or other applicable work period by each employee; and
- O. The number of hours of compensatory time compensated in cash, the total amount paid, and the date of such payment. (20 CFR 553.50)