POL 05.05.02

Wage and Hour Policy

Authority: Chancellor

History:

* First Issued: May 1994
* Last Revised: June 6, 2017

**Related Policies**

* [Hours of Work and Overtime Compensation, Office of State Human Resources, Revised: January 1, 2011](https://oshr.nc.gov/policies-forms/salary-administration/hours-of-work-and-overtime-compensation)

**Additional References**

* [**NCGS § 126-4. Powers and duties of State Human Resources Commission**](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_126/GS_126-4.html)
* [US DOL Wage and Hour division (WHD)–Wages and the Fair Labor Standards Act (FLSA)](https://www.dol.gov/whd/flsa/index.htm)
* [Department of Labor - Minimum Wage](https://www.dol.gov/general/topic/wages/minimumwage)
* [UNCP Banner (HR)](http://www.uncp.edu/about-uncp/administration/departments/human-resources/banner-hr)

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**1. PURPOSE**

1.1 To ensure the University establishes a consistent practice with regard to wage and hour provisions for employees whose position is subject to the State Human Resources Act (SHRA) and exempt from the overtime provisions of the federal [Fair Labor Standards Act](https://www.dol.gov/whd/flsa/) (FLSA). Additionally, the Office of State Human Resources (OSHR) policy on [Hours of Work and Overtime Compensation](https://ncoshr.s3.amazonaws.com/s3fs-public/documents/files/Hours%20of%20Work%20and%20Overtime%20Compensation.pdf) requires the university to administer overtime in compliance with federal and state overtime provisions.

**2. SCOPE**

2.1 This policy applies to all SHRA (staff) employees, (permanent, time limited, part time and temporary, non-exempt) and employees Exempt from the Human Resources Act (EHRA) non-faculty, FLSA exempt. An employees’ wage and hour status is based upon the FLSA exemption status of his/her position as determined by the university’s Office of Human Resources.

2.2 Condition of Employment

2.2.1 All SHRA and EHRA employees must sign a job acceptance agreement form acknowledging it is the university’s policy to provide compensatory time off in lieu of monetary compensation for all hours worked beyond forty (40) in a standard work week. Agreement to this policy is a condition of employment with the university. Failure or refusal of any employee to sign such agreement will end the employment relationship. This signed form shall be a part of the employee’s personnel file and must remain on file at least three (3) years following the employee’s separation from employment with the university.

2.2.2 Temporary SHRA and student employees are paid for all hours worked and do not accrue compensatory time. Additionally, temporary EHRA employees, adjunct and regular faculty do not accrue compensatory time.

**3. POLICY**

3.1 This policy covers the following areas of hours of work and overtime compensation:

3.2 Minimum Wage

3.2.1 All employees (including temporary and student) must be paid the current Federal minimum wage or the North Carolina minimum wage, whichever is higher. All of the approved salary rates for SHRA employees certified for employment, published by the Office of State Human Resources, provide more than the federal or state minimum wage. The EHRA salary ranges set by the UNC Board of Governors and the salary ranges approved by the university’s Board of Trustees provide more than the federal or state minimum wage.

3.3 Wage and Hour Status

3.3.1 The university’s Office of Human Resources determines the wage and hour status of a position, when a position is established or reclassified. The determining factors of the wage and hour status of a position is based upon the FLSA duties test and governing regulations. Direct all questions or requests to change the wage and hour status of a position to the Office of Human Resources, Classification section, at campus extension 6334 or via email at [hr@uncp.edu](mailto:hr@uncp.edu).

3.3.2 All SHRA non-exempt employees, (employees subject to the State Human Resources Act), are subject to overtime unless positions have specifically been determined to be exempt from overtime. The special provision for Law Enforcement Officers (LEOs) subject to the SHRA are on a twenty-eight (28) day work period and shall receive overtime compensation for any hours worked over 171 hours. Hours worked between 160 and 171 are counted as gap hours with a compensation rate of hour for hour.

3.3.3 All non-exempt employees must be compensated at the rate of time-and-one-half (1.5), either in the form of cash or compensatory time off for all hours worked over forty (40) during a standard work week. Any work week less than forty (40) hours, the SHRA non-exempt employee will receive compensatory time at the rate of straight time up to forty (40) hours. Any student or temporary employee classified as non-exempt must be compensated in the form of cash at time-and-one-half for all hours worked over forty (40) during a standard work week.

3.3.3.a. unless specifically approved by the Chancellor or his/her designee, compensation for overtime work will be provided in the use of compensatory time off at the rate of one and one-half (1.5) paid time off for all hours worked by SHRA non-exempt employees in a work week, over forty (40) hours.

3.3.3.b. effective June 1, 2017, all SHRA exempt employees will not receive compensatory time for hours worked over forty (40) in a single work week. Any SHRA exempt employee with a compensatory leave balance on the date of this policy shall exhaust all available leave no later than December 31, 2017. Any SHRA exempt employee compensatory time leave balance after December 31, 2017 will be forfeited.

3.3.4 Permanent SHRA employees may be exempt from overtime if the duties and responsibilities of the position have been determined to meet one of the FLSA exemptions. The Office of Human Resources, in accordance with the U.S. Department of Labor (DOL) FLSA exemption regulation, determines the exemption status of a position. The decision is based on the general duties test, responsibilities assigned to the position and salary. The specificity of the employee’s job and salary must meet all the requirements of the U.S. DOL’s FLSA regulation.

NOTE: For additional information on exemptions from overtime compensation, reference the Office of State Human Resources policy, [Hours of Work and Overtime Compensation](https://ncoshr.s3.amazonaws.com/s3fs-public/documents/files/Hours%20of%20Work%20and%20Overtime%20Compensation.pdf) and the [U.S. DOL FLSA exemption regulation](https://www.dol.gov/whd/overtime/fs17a_overview.pdf).

3.4 Managing Work Time

3.4.1 All managers and supervisors are responsible for assuring compliance with the Wage and Hour policy. Violation of University Wage and Hour provisions may result in disciplinary action. Additionally, any violation may result in fines by the U.S. Department of Labor Wage-Hour Division.

3.4.2 Responsibilities of Managers and Supervisors:

3.4.2.a. establish and communicate work schedules for all employees. Schedules should be established to meet departmental operating needs, and whenever possible schedules should be flexible to meet the request of an employee’s leave.

3.4.2.b. manage work time so that non-exempt employees do not perform unscheduled work. Due to the wage and hour provisions, non-exempt employees must perform work during regular work schedules, unless approved in advance or in the case of a bona-fide emergency.

3.4.2.c. approve in advance any change of an existing work schedule, including overtime work.

3.4.3 Time worked without authorization

3.4.3.a. any hours worked (over forty (40) hours) in the standard work week by an employee without the manager or supervisor’s permission or knowledge is considered unauthorized work time. The hours worked will be compensated, but employees working overtime without prior authorization (approval) may be subject to disciplinary action.

3.5 Work Day

3.5.1 The work day is the twenty-four (24) hour period beginning at 12:01 a.m. and ending at 12:00 midnight. Working more than eight (8) hours in a work day does not necessarily constitute overtime. Overtime occurs only after working more than forty (40) hours in a standard work week. When the time changes from Daylight Savings Time (DST) to Eastern Standard Time (EST), employees on duty at this change actually work a nine (9) hour shift rather than the normal eight (8) hour shift. The university must compensate for this additional hour at one-and-one-half (1.5) time, if hours worked are over forty (40) in the standard work week.

3.6 Standard Work Week

3.6.1 The University's standard work week is from 12:01 a.m. Sunday to 12:00 midnight Saturday. The Assistant Vice Chancellor for Human Resources / EEO Officer may approve variations of the standard work week, upon written request of the divisional senior leadership, which shall be communicated in advance to employees prior to the schedule change.

3.7 Regular Rate

3.7.1 The employee's regular rate is the hourly rate and any shift premium pay and call-back pay earned for the standard work week. The "regular rate" is determined by dividing the employee's straight time earnings for the shift including any shift premium pay, call-back pay, bonus and longevity pay by the total number of hours worked during the standard work week. Employees who work overtime and are compensated monetarily rather than received compensatory time off shall be paid one and one-half (1.5) times the employee’s regular rate. The hourly rate is determined by dividing the employee's annual salary by 2080 (40 hours x 52 weeks).

3.8 Overtime work

3.8.1 Non-exempt SHRA employees earn overtime compensation for all actual hours worked over forty (40) in a standard work week. Paid leave (absences) time which is not worked such as vacation, sick, bonus, compensatory time, civil, or family medical leave, and university observed holidays, etc… does not count as work time for the purpose of determining overtime. An employee must work over forty (40) hours in a standard work week in order to earn overtime. Overtime obligation does not occur until the employee has worked more than forty (40) hours in a standard work week. Working more than eight (8) hours during a work day does not necessarily incur overtime obligation on the part of the university. Prior to authorizing compensation for overtime work, the supervisor must ensure funds are available for all temporary and student employees. SHRA non-exempt employees will earn overtime in the form of compensatory time off.

3.8.2 Limits of Overtime Compensatory time for FLSA non-exempt SHRA employees

3.8.2.a. overtime compensatory time off may be accumulated up to a maximum of two-hundred forty (240) hours

3.8.2.b. LEOs are subject to the State Human Resources Act and may accumulate up to a maximum of four-hundred eighty (480) hours

3.8.2.c. overtime compensatory time should be taken as soon as possible and must be taken prior to use of any vacation leave (Exceptions for retirees who may need to exhaust vacation leave prior to retirement)

3.8.2.d. overtime earned above the maximum (240 or 480 hours) or exceeds a twelve (12) month period shall be paid at the rate of one and one half (1.5) times the employee’s regular hourly rate in the next available pay period

3.8.2.e. employees should be permitted to use overtime compensatory time off upon request, unless the request will disrupt the business operations of the work unit

3.8.2.f. managers and supervisors should develop a plan within the work unit to reduce the university’s liability of compensatory time and permit the employee to exhaust the compensatory time as soon as practical

3.8.2.g. compensatory time shall be paid in a lump sum not to exceed two-hundred forty (240) hours upon a SHRA non-exempt employee separating from the university or transferring to another UNC institution or State agency

3.9 Exempt Employees

3.9.1 SHRA employees who are exempt from the overtime provisions of the FLSA are eligible to receive holiday pay, holiday premium pay, and equal time off. Effective June 1, 2017, All SHRA exempt employees will not receive compensatory time for hours worked over forty (40) in a standard work week. Any SHRA exempt employee with a compensatory leave balance on the date of this current policy shall exhaust all available leave no later than December 31, 2017. Any SHRA exempt employee compensatory time leave balance after December 31, 2017 will be forfeited.

3.10 Record-keeping Requirements

3.10.1 All SHRA non-exempt, student and temporary employees are required to enter all hours worked and complete bi-weekly leave reports and all SHRA and EHRA exempt employees are required to enter all leave time in Employee Self-Service (ESS) through BraveWeb. The Office of Human Resources must retain time and leave records for five (5) years.

3.11 Recording Work Time

3.11.1 Each non-exempt, temporary and student employee is required to maintain his/her leave report. In a situation where work time is completed by another authorized person, an employee is required to verify the data at the end of the reporting period and signify its completeness and accuracy. The employee's immediate supervisor must review and approve the time record. Hours worked and absences are recorded to the nearest quarter (15 minutes) of an hour. Non-work time is accounted for through leave, holidays, or other reasons and is recorded according to instructions reflected in BraveWeb, Employee Self-Service (ESS). Employees must report all hours worked and/or leave used accurately. A falsified time record and leave report violates state and university policies. Any employee who intentionally prepares, certifies, or approves a falsified leave record is subject to disciplinary action, up to and including dismissal.

3.12 Hours Worked (Work Time)

3.12.1 All hours worked during which an employee is "required or permitted" to work is considered hours worked (work time). Ordinarily, all hours from the beginning to the end of the work day are considered work time, except for periods when the employee is completely relieved of all duties for meal periods or other absences accounted for by approved leave.

3.12.2 Examples of work time (list is not all inclusive):

3.12.2.a. changing clothes, if required by job;

3.12.2.b. cleaning or repairing equipment;

3.12.2.c. fire drills;

3.12.2.d. blood donorship during employee's regular work schedule;

3.12.2.e. initial assessment under the Employee Assistance Program (EAP);

3.12.2.f. grievance or appeal activities during employee's regular work schedule (counseling, case preparation and presentation, serving as a witness, etc.);

3.12.2.g. meal periods of less than thirty (30) consecutive minutes or when employees are not free to leave work stations;

3.12.2.h. writing job descriptions;

3.12.2.i. approved University training programs or other required instruction.

3.12.2.j. work from home (use and response time i.e., emails, e-devices, laptops), if required and approved in advance by management

3.12.3 Examples of non-work time:(list is not all inclusive)

3.12.3.a. absences, including sick leave, vacation, university approved holidays, weather related absences, or other approved leave;

3.12.3.b. voluntary charitable work; court appearance not related to job;

3.12.3.c. shut down activities, such as power outages or enforced holidays, when employees are released from work;

3.12.3.d. personal waiting time prior to or after regular work hours as long as employee is not permitted or required to perform work;

3.12.3.e. blood donorship, outside the employee's regular work schedule

3.12.3.f. voluntary training, not required by the university and/or management

3.12.3.g. grievance time spent outside the employee’s regular work schedule, unless required by the university

3.13 Travel Time

3.13.1 Whether travel time is compensable depends on the kind of travel involved. Travel from home to work is not considered work time even if the employee must report to work at various job sites.

3.13.2 Travel from one job site to another job site during the work day is always counted as work time. Travel from an outlying job site at the end of the day to the normal work site is work time.

3.13.3 Travel out of town during the work day is counted as work time except for the period of time that normally would be considered as home to work travel time and bona-fide meal periods. Travel out of town overnight, is counted as work time only for those hours which fall within an employee's regularly scheduled shift. This applies to non-work days (such as weekends) as well as regularly scheduled work days.

3.13.4 Overnight travel outside of the regularly scheduled work hours is not counted as work time. The employee receives travel time off. Travel time off is equal time off, granted on an hour-for-hour (not overtime) basis. This applies to both exempt and non-exempt employees.

3.13.5 Management may adjust an employee's schedule in the same work week to accommodate these hours and not incur liability for overtime, compensatory time off.

3.14 Break / Meal Periods

3.14.1 The Fair Labor Standards Act (FLSA) does not require breaks and/or meal periods. However, as operational requirements permit and working conditions warrant, University employees may be permitted to take one (1) fifteen (15) minute paid break during any work period of four (4) consecutive hours. Break periods are counted as hours worked.

3.14.2 As a matter of practice, full-time employees may take one (1) fifteen (15) minute paid break period during the first half of the assigned shift (prior to the meal period) and one (1) fifteen (15) minute paid break period during the second half of the assigned shift (after the meal period), approved by the supervisor. In certain occupations, as deemed necessary for safety and health reasons, management may allow more than one (1) break period per four (4) hours assigned shift.

3.14.3 Break periods may not be combined with the meal period itself or with another break period, may not be used in order to report to work late or leave early, and may not be used in conjunction with any type of leave. Break periods may not be accrued. If breaks are not taken during specified time frames, break periods are forfeited.

3.14.4 A standard work schedule of eight (8) hours provides for a meal period of one (1) hour, as a matter of university practice. In order to be counted as work time, a meal period must be at least thirty (30) consecutive, uninterrupted minutes. Meal periods of greater length may be approved by management. During the meal period, the employee must be completely free from assigned work. If an employee is required (or permitted) to take a meal period at the work station and is required or permitted to work while eating, the time is considered work time. Unless specifically approved by the department head, it is the policy of the university that all employees shall take a meal period of at least thirty (30) consecutive, uninterrupted minutes. On infrequent occasions and with prior supervisory approval, an employee may work through the usual meal period to shorten the workday.

3.15 Call-Back Time

3.15.1 Non-exempt employees called back to work in an emergency, before or after regularly scheduled work hours or on non-work days, are credited with a minimum of two (2) hours. If this results in overtime during the standard work week, time worked over forty (40) hours is compensated at the rate of one and one-half (1.5) paid time off for all time worked by SHRA non-exempt employees.

3.16 On-Call Time

3.16.1 Time spent by an employee who is required to remain on call on the employer’s premises or so close thereto that the time cannot be used for the employee’s own purposes is considered working time. Employees who are merely required to leave word as to where they may be reached are not on call in this sense.

3.16.2 The fact that an employee lives on the employer’s premises and is on call for twenty-four (24) hours a day does not mean that the employee is entitled to pay for all those hours. Such an employee has regular duties to perform but is subject to work at any time in the event of an emergency. Ordinarily, employees have a normal night’s sleep, ample eating time and may, during certain periods, come and go as the employee pleases.

3.16.3 An agreement should be reached with an employee in this category as to the extent of duty which will make clear the time that should be considered as hours not worked.

3.17 Age Limitations

3.17.1 All permanent SHRA and EHRA employees must be at least eighteen (18) years of age.

3.18 Volunteers

3.18.1 Volunteers are not in an employer/employee relationship. Volunteers perform hours of service for civic, charitable, or humanitarian reasons. The following conditions must be met in order for volunteer status to be maintained:

3.18.1.a. volunteer services (from current employees) must be offered freely without pressure or coercion;

3.18.1.b. volunteer services (from current employees) may not involve performing the same type of services as those for which the individual is employed;

3.18.1.c. volunteer services must be offered without promise, expectation, or receipt of compensation;

3.18.1.d. while nominal expenses may be reimbursed, volunteer services cannot be a substitute for compensation and cannot be linked to productivity;

3.18.1.e. arrangements for volunteer work should be made in writing, in advance of the volunteer work including a waiver of University liability by the volunteer.

(NOTE: For detailed, specific information for hours of work and overtime compensation, refer to the [Office of State Human Resources policy Hours of Work and Overtime Compensation.](https://ncoshr.s3.amazonaws.com/s3fs-public/documents/files/Hours%20of%20Work%20and%20Overtime%20Compensation.pdf)