

OVERTIME POLICY AND PROCEDURES

McNeese State University adheres to all federal and state rules and regulations governing work hours and overtime payments. This policy is written in accordance with the provisions of the Fair Labor Standards Act, the University of Louisiana System Board rules, and the rules of the Louisiana Department of Civil Service in order to promote fair pay practices with regard to work hours and overtime payments.

DEFINITIONS:

Compensatory leave- Leave time that is credited to the employee in lieu of cash payment of overtime.

Employ-To allow, suffer, or permit work to be performed by an individual.

Exempt employee-An employee who holds a position which is not compensated at the time and one half rate for hours worked over 40 in a standard workweek, and who is exempt from the provisions of the Fair Labor Standards Act due to salary and/or or duties.

Fair Labor Standards Act- This act is commonly referred to as FLSA, and was enacted by congress in 1938 to set the criteria for minimum wage payment, overtime payment at the time and one half rate for hours worked over 40 in a standard workweek, and incorporated laws for the employment of minors.

Non-exempt employee-An employee who holds a position which must be compensated at the time and one half rate for hours worked over 40 in a standard workweek, in accordance with the provisions of the Fair Labor Standards Act.

Standard Workweek-A fixed and regularly recurring period of 168 hours—7 consecutive twenty-four hour periods that an employee is assigned to work on a regular recurring basis.

Standard Workday-The period of time, during one twenty-four hour period, that an employee is assigned to work on a regular recurring basis.

State Overtime-Hour for hour overtime authorized by Chapter 21 of the Louisiana Department of Civil Service Rules when an employee is not eligible for FLSA overtime.

POLICY STATEMENTS:

1. **All** 12 month employees can be **required** to perform overtime as per Chapter 21 of the Civil Service rules, and the University of Louisiana System Board Policy# FS.III.XXI.-1.
2. All employees should be directed by their supervisor to work overtime, and must have pre-approval to perform overtime whether the compensation is in the form of cash or compensatory leave.
3. All university employees (state agency) can be required to accept compensatory leave in lieu of cash overtime as per the regulations of the Fair Labor Standards Act.
4. The university will compensate overtime in the form of compensatory leave unless mitigating circumstances or the nature of work warrant cash payments.
5. All university employees are required to sign a Statement of Agreement/Understanding explaining the employer's right to compensate overtime in the form of compensatory leave **prior** to the actual performance of work, or at the time of hire.
6. All supervisors must ensure that their budget has funds delegated for the payment of overtime whether in the form of cash or compensatory leave. Some compensatory leave is payable to the employee upon separation of the employee from the university; therefore, compensatory leave payout is a budget liability. It is simply "banked overtime".
7. Employees are not permitted to work at home without prior approval from the immediate supervisor, and the division/section/unit head.
8. The university requires that all employees use compensatory leave before requesting the use of annual leave. Payroll will automatically reduce the compensatory leave balance before reducing the annual leave balance.

Standard Workday and Standard Workweek:

Each employee is designated as Exempt from FLSA, or Non-Exempt from FLSA. Each employee has a standard workweek with time beginning at 12:01 am on Saturday, and ending at midnight on the following Friday. Most employees have a standard workday of Monday-Friday from 7:45 am through 4:30 pm with a 45 minute lunch period. Certain employees have a different standard workday due to the needs of the department, and the employee is notified accordingly. Human Resources will maintain the standard workweek and standard workday of all employees, and must be notified in writing of any deviation of the standard workweek or workday. On-going flexible schedules must be approved by the department and division head, and must be filed in Human Resources.

The university requires that all individuals employed on a full time basis, other than shift employees, observe the lunch period. Each employee should have a minimum 30-minute lunch period. Employees who wish to remain at the workstation to have a lunch period should not be allowed to perform work. To allow an employee to remain at the workstation could "suffer" them to work as they may be answering the telephone, opening the office, greeting customers, etc. Each supervisor must ensure that no work occurs if the employee chooses to remain at the workstation to have a lunch period. If the employee works in an area that remains open due to departmental circumstances, the department should "shift" lunch periods, allowing employees to observe the lunch period at different times. Compensatory leave should not be granted to employee's for the purpose of allowing the office to remain open at all times during the workday.

Employees who arrive early to work because of choice should not be allowed to perform work until the actual start of their standard workday. To allow an employee to arrive at work early could "suffer" them to work as they may be answering the telephone, opening the office, greeting customers, etc. Each supervisor must ensure that no work occurs if the employee chooses to arrive at work earlier than scheduled.

Work that occurs outside of the standard workday or workweek, even though it may be unauthorized, must be compensated whether or not supervisor permission is granted to perform the work.

Compensation for Non-Exempt Employees:

1. All FLSA overtime will be compensated in the form of time and one half and may be in the form of cash or compensatory leave.
2. All State overtime will be compensated in the form of hour for hour and may be in the form of cash or compensatory leave.
3. All State overtime for work performed on an official holiday will be compensated at the time and one half rate and may be in the form of cash or compensatory leave.
4. All State overtime for work performed during an official university closure due to extraordinary circumstances will be compensated at the time and one half rate and may be in the form of cash or compensatory leave.

Compensation for Exempt Employees:

1. No provision under FLSA for time and one half-payment. State overtime will be granted.
2. All State overtime will be granted on an hour for hour basis and may be in the form of cash or compensatory leave for classified employees, and compensatory leave only for unclassified employees as per ULS Board rules.
3. All State overtime for work performed during an official university closure due to extraordinary circumstances will be compensated at the time and one half rate, and may be in the form or cash or compensatory leave for classified employees; and hour for hour compensatory leave only for unclassified employees as per ULS Board rules.
4. All State overtime for work performed on an official holiday will be compensated at the time and one half rate and may be in the form of cash or compensatory leave for classified employees; and hour for hour compensatory leave only for unclassified employees as per ULS Board rules.
5. As per the ULS Board rules, certain unclassified positions are not eligible to accrue compensatory leave. These positions are listed below:
 - President

- Vice Presidents
- Academic Deans
- Athletic Director
- Head Coaches

These employees do not use leave during forced closures.

6. Faculty members do not accrue compensatory leave.

Caps on Overtime Earned at the Time and One Half Rate:

1. Non-Exempt employees who accrue compensatory leave at the time and one half rate (FLSA overtime), shall not accrue more compensatory leave than what is allowed under FLSA provisions for such. The cap on time and one half compensatory leave is 240 hours for regular employees, and 480 hours for law enforcement employees.
2. Once the maximum or cap is reached, any additional work performed that exceeds the standard workweek must be paid in cash at the time and one half rate.

Caps on Overtime Earned at the Hour for Hour Rate:

1. Non-Exempt employees-compensatory leave earned at the hour for hour rate may be accrued in excess of 360 hours, but no more 360 hours will be carried forward from one calendar year to the next unless an exception is granted by the Civil Service Commission to maintain essential services necessary to preserve the life, health, or welfare of the public
2. Unclassified exempt employees-compensatory leave earned at the hour for hour rate may not be accrued in excess of 30 working days in a fiscal year, and no more than 30 working days may be carried forward to the next fiscal year.

Payment or Cancellation of Compensatory Leave upon Separation or Transfer to Another State Agency:

1. Time and One Half Compensatory Leave
Upon separation or transfer from the university, all compensatory leave earned at the time and one half rate and credited to the employee must be paid in accordance with the provisions of FLSA.
2. Hour for Hour Compensatory Leave
 - All unused compensatory leave earned hour for hour by **exempt** employees will not be paid upon separation or transfer from the university, and is cancelled upon separation or transfer from the university, and cannot be reinstated upon reemployment with the university or any other state agency.
 - All unused compensatory leave earned hour for hour by **non-exempt** employees **must be** paid upon separation or transfer from the university at the final regular rate of pay received by the employee.

Payment for "Sleep Time" during Emergency Closure or Special Circumstances

During the event of a mandatory evacuation, employees who are required to remain on campus 24 hours a day will be paid, to include "sleep time", at an overtime rate in accordance with the above policy by FLSA status and employment type. Once the mandatory evacuation order is rescinded, payment of "sleep time" will be reassessed daily on the basis of the department's ability to allow the employee to return to his/her residence to sleep or to afford them uninterrupted sleep at accommodations on campus.

The same policy shall be in effect during a natural disaster or any other event requiring employees to remain on campus 24 hours a day, even though no evacuation order is in effect. The payment of "sleep time" will be reassessed daily on the basis of the department's ability to allow the employee to return to his/her residence to sleep or to afford them uninterrupted sleep at accommodations on campus.