

COLLEGE of CHARLESTON

OFFICIAL POLICY

9.3.3

HOURS OF WORK AND OVERTIME POLICY

11/22/16

Policy Statement

In accordance with the Fair Labor Standards Act (FLSA) and applicable South Carolina Human Resources Regulations, the College of Charleston has established the following policy on minimum wage, the official workweek, hours worked, overtime compensation requirements, equal pay standards, and child labor restrictions for employees subject to these provisions.

Policy Manager and Responsible Department or Office

The Vice President of Human Resources; Office of Human Resources.

Policy

GENERAL PROVISIONS

Exempt/Non-exempt Status Under the FLSA

Section 13(a)(1) of the FLSA provides an exemption from both minimum wage and overtime pay for employees employed as bona fide executive, administrative, and professional employees. Section 13(a) (1) and Section 13(a) (17) also exempt certain computer employees. These exempt employees are not subject to the FLSA minimum wage, overtime, or record keeping requirements. As such, exempt employees are expected to work as many hours as required to perform the duties of the position. To qualify for exemption, employees generally must meet certain tests regarding their job duties and be paid on a salary basis at not less than the FLSA established minimum salary. Job titles do not determine exempt status. In order for an exemption to apply, an employee's specific job duties and salary must meet all the requirements of the FLSA regulations. Determination will be made by the Office of Human Resources.

Non-exempt employees are covered by, or subject to, the minimum wage, overtime, and recordkeeping requirements of FLSA. All employees who are not considered exempt from the FLSA will be considered non-exempt.

Minimum Wage

Federal Minimum wage is currently \$7.25 an hour for all employees (excluding certain student and other employees). Exempt employees must meet or exceed the FLSA minimum standard for exemption. Non-exempt employees must not be paid less than the minimum wage.

Compensation

Classified employees shall be paid according to the State pay bands, and no employee shall be paid more or less than allowed by the appropriate pay band. Based upon departmental needs and approval, some positions may be designated as permanent $\frac{3}{4}$ time and retain benefits. For these positions, salary, accruals of sick and annual leave, and State service time will be prorated accordingly.

HOURS OF WORK

The Workweek

The normal office hours of the College of Charleston shall be 8:30 a.m.–5:00 p.m., Monday through Friday. The minimum full-time workweek for the College shall be 37.5 hours, except in the cases noted below. Permanent employees (regardless of exemption status) shall not receive additional compensation or compensatory time for hours worked between 37.5 and 40.0 hours per workweek.

For record keeping purposes, the workweek begins at 12:01 a.m. on Sunday and ends at 12:00 midnight on Saturday.

Special Conditions/Exceptions for Essential Core Service Employees

(Public Safety and Physical Plant Employees):

Public Safety: Public Safety Officers, Sergeants, and Corporals are normally scheduled to work twelve hours per day, alternating three days one week and four days the next week.

Physical Plant: Physical Plant employees have a minimum full-time work week of 40 hours. The official core work hours of the Physical Plant are 7:00 a.m. to 3:30 p.m., Monday through Friday. Physical Plant employees have a 30 minute lunch break and two scheduled 15 minute breaks during the day, due to the nature of the work that is performed.

Hours Worked

Hours worked include all time that the employee is required to be at a prescribed workplace and all time during which the employee is **permitted** to work. Hours worked also include 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. Time spent in leave status is not considered hours worked.

Regular Rate

The regular rate of pay includes all remuneration for employment paid to an employee to include base pay and shift differentials. Compensation of all employees is based on forty (40) hours per week or 2080 hours per year.

Hourly Rate Employees

The hourly rate is the "regular rate" for non-exempt or temporary hourly employees. This rate is calculated by dividing the annual salary by 2080 hours. Hourly temporary employees shall be compensated for all hours worked. All temporary employees compensated on hourly-rate basis are classified as non-exempt.

Holidays

A permanent, non-exempt employee who is required to work on a holiday shall be given holiday compensatory time in accordance with Section 19-708.04 of the State Human Resources Regulations at the convenience of the department within one year from the date of the holiday. Time worked on a legal holiday shall be used in computing total hours worked for overtime purposes. All non-exempt employees who cannot coordinate a time to take or choose not to receive holiday compensatory time earned for working on a holiday within the one-year period shall be compensated for the holiday at the straight hourly pay rate of the employee. All non-exempt employees shall be compensated for all unused holiday compensatory time upon separation from employment or upon entering an exempt position.

A permanent, exempt employee who is required to work on a holiday shall be given holiday compensatory time in accordance with Section 19-708.04 of the State Human Resources Regulations at the convenience of the department within one year of the date of the holiday. If granted, the compensatory time must not be at a rate greater than one (1) hour of compensatory time for each hour worked in excess of 40.0 in the official workweek and may be at a lesser rate. It is the responsibility of the department to develop procedures for the authorization and use of holiday compensatory time for exempt employees, and keep records to substantiate the consistent application of the department's procedures. Exempt employees shall not be paid for unused holiday compensatory time. Exempt employees shall not be paid for unused holiday compensatory time upon separation of employment or upon entering a non-exempt position.

Adjusted Workweek

Under warranted circumstances, subject to approval by the appropriate supervisor, a non-exempt employee may be required to work in excess of the normal workday and may be given time off during the same workweek at the rate of an hour for an hour to avoid working over 40 hours in a workweek. This adjustment is not allowed for hours worked between 37.5 and 40.0 hours during any workweek. This type of work rescheduling precludes working over 40.0 hours in a workweek and eliminates the need for overtime payment.

Flexible Scheduling

Under warranted circumstances, subject to approval by the appropriate supervisor, a department may determine that a "flexible schedule" is appropriate. Flexible schedules are determined by department heads and require a fixed schedule. For example, an employee may be scheduled to come to work at 7:30 and leave at 4:00. The department head may set an employee's schedule in any combination of work hours that ensures coverage and appropriate production as long as the

employee works at least 37.5 hours per week. This should be an on-going, set schedule and should not be revised unless circumstances and/or departmental needs warrant a change. This should in no way be construed as a license for the employee to set their own schedule at any time or deviate from the prescribed schedule as determined and approved by the department head.

On-call

On-call time is not regarded as work time unless an employee is required to remain at the employer's premise or prescribed work place or is so restricted that the employee cannot use the time effectively for his or her own purposes. If the employee is not confined to his or her home or any particular place but only required to leave word where he or she can be reached, then the hours are not considered working hours.

Call Back

In the event that an employee is called back to the campus for an emergency, either before or after normal working hours, the employee will be paid for all time worked at the employee's regular rate. Non-exempt employees will be paid for a minimum of two hours, unless the employee receives advance notice that the call is cancelled or the employee refuses alternate work that is offered upon reporting to work.

Shift Differential Pay

Typically, shift differential pay is approved for positions in departments that require around-the-clock coverage or operations that consistently require late evening/early morning coverage. At the discretion of the appropriate supervisor, shift differential can be approved for shifts in which employees are required to work hours other than 8:30am to 5:00pm. Shift differential is paid on an hourly basis for all regularly scheduled hours worked on a shift that has been approved for shift differential. Shift rate differentials are established for evening and late night/ early morning shifts.

Supervisors are responsible for identifying the shifts that will be eligible for shift differential, the positions on those shifts that will receive the differential pay, and for communicating this information to their employees. A supervisor must be consistent in applying the chosen practices concerning shifts and positions throughout their area(s) of responsibility.

Essential / Core Service Employees

Those employees in positions determined by the College to be essential core service positions are responsible for maintaining vital operations during closings for emergency or hazardous weather conditions. Essential employees may be required to report to work or remain at work in preparation for, during or after emergency conditions. For non-exempt, essential employees, all hours worked related to emergency conditions must be reported as hours worked on the timesheet. Exempt, essential employees may be permitted compensatory time, if applicable, in accordance with the **Compensatory Time (Exempt Employees)** section of this policy.

Meal Periods

A bona fide meal period of thirty (30) minutes or more which occurs during the scheduled workday is not counted as hours worked, if the employee is completely relieved from duty for the purpose of eating a meal. For the College of Charleston, the meal period (lunch period) is one (1) hour each workday, except in the case of Physical Plant and Public Safety employees who work extended shifts, or in the case of a flexible schedule, with at least a thirty (30) minute meal period.

Rest Periods

Rest periods or "coffee breaks" of short duration must be counted as hours worked. One morning and one afternoon "coffee break" of no more than fifteen (15) minutes each is permitted. Breaks are a privilege and not a right. Breaks shall not be used to allow an employee to come in late, to leave early, or to extend the lunch period.

Leave Status

Time spent in leave status, whether paid or unpaid, is not considered hours worked and therefore does not contribute to a 37.5 or a 40 hour week with regard to overtime. Time off for holidays and compensatory time are not counted as hours worked when considering overtime.

Travel Time (Non-exempt Employees)

Travel time for non-exempt employees may be hours worked under some conditions. Ordinary home-to-work travel or vice versa is not working time. All time spent traveling on one-day assignments is considered time worked regardless of time of day or day of the week. The amount of work time for such trips will be based on the travel time from the employee's home to the destination place and back, unless they depart and return from campus.

Travel away from home involving an overnight stay for non-exempt employees is considered time worked when it occurs during the employee's normal working hours. This provision is applicable not only on regular working days, but also during the corresponding hours of non-working days.

If a non-exempt employee performs work-related travel by driving or by operating a vehicle, the travel time is considered hours worked.

Lectures, Meetings, and Training (Non-exempt Employees)

When an employee by reason of official responsibilities is required to attend lectures, meetings, training programs, etc., such time shall be considered work time.

Hours of Work and Record-keeping (Non-exempt Employees)

Actual time in and actual time out must be recorded for non-exempt employees as it occurs on a daily basis. Each day's total work time must reflect at least 7.5 hours. If a combination of time worked and leave taken are reflected for a specific day, the total must equal at least 7.5 hours. If a full day of leave is taken, the leave must be recorded as 7.5 hours (leave accumulations are based on a 37.5 hour work week).

All non-exempt employees are required to record their actual time in and actual time out. Time is recorded in increments of 15 minutes (.25 of an hour). This is in compliance with the federal labor laws. To ensure that time worked is "averaging out" when using a rounding method to calculate time worked, time will be rounded up and down based on the increment. For example, if the employee reports to work at 8:08 a.m., the employee would be paid for time worked beginning at 8:15 a.m. If the employee reports in at 9:07 a.m., paid time would begin at 9 a.m. There is a lag time for payment of services for non-exempt employees – refer to current payroll schedule as well as dates reflected on the time reports to determine pay dates.

If a non-exempt employee is told not to report actual hours worked on their timesheet, this should

be reported to Human Resources immediately.

Public Safety Officers, Sergeants and Corporals are normally scheduled to work twelve hours per day, alternating three days one week and four days the next week. If the employee works more than 86 hours in a two-week period, the employee shall be paid overtime on the hours that exceed 86 hours (see [Hours or Work-Law Enforcement Policy](#) for additional information).

Paid annual or sick leave for permanent employees can be approved only if leave is available. The supervisor is responsible for verifying that leave is available before authorizing and submitting timesheets.

Supervisors are reminded that leave balances reflected on the timesheets are **not current**. If a supervisor wishes to verify leave balances, they should contact Human Resources prior to authorizing leave requests. Since timesheets are submitted after the pay period is over, leave and overtime are reported to Payroll in arrears, after such event occurs.

Non-exempt employees are required to complete and submit timesheets (according to the payroll cycle) to their supervisor for approval. No employee should approve their own timesheet. No changes can be made to the timesheet without the employee's concurrence.

Falsification of any time report shall be cause for disciplinary action up to and including termination.

Hours of Work and Record-keeping (Exempt Employees)

Permanent, exempt employees must record ALL leave taken. Exempt employees are required to complete and submit leave reports (according to the payroll cycle) to their supervisor for approval. No employee should approve their own leave report. No changes can be made to the leave report without the employee's concurrence.

Paid annual or sick leave can be approved only if leave is available. The supervisor is responsible for verifying that leave is available before authorizing and submitting leave reports. If a full day of leave is taken, the leave must be recorded as 7.5 hours. If a combination of time worked and leave taken are reflected for a specific day, the total must equal 7.5 hours.

If a supervisor wishes to verify leave balances, they should contact Human Resources prior to authorizing leave requests.

Hours of Work and Record-keeping (Temporary Employees)

Actual time in and actual time out must be recorded for temporary, non-exempt employees as it occurs on a daily basis. There is a lag time for payment of services for temporary employees – refer to current payroll schedule as well as dates reflected on the time reports to determine pay dates.

Temporary employees do not accrue leave of any kind, or compensatory time of any kind, and cannot be paid for time not worked. All time worked must be recorded as it occurs. Temporary employees who need to be absent from work are expected to request time off in advance from their supervisor. Temporary employees are paid only for those hours actually worked. Temporary

employees are not entitled to paid holidays; however, if they are required by their supervisor to work on a holiday, that time must be recorded as hours worked. Temporary, non-exempt employees shall be paid no less than one and one-half (1.5) times his/her regular rate of pay for all hours worked over 40 in a workweek as overtime compensation.

Temporary, non-exempt employees are required to complete and submit timesheets (according to the payroll cycle) to their supervisor for approval. No employee should approve their own timesheet and temporary employees should not be authorized to approve timesheets or leave reports of permanent employees at any time. No changes can be made to the timesheet without the employee's concurrence.

If a temporary, non-exempt employee is told not to report actual hours worked on their timesheet, this should be reported to Human Resources immediately.

Falsification of any time report shall be cause for disciplinary action up to and including termination.

OVERTIME

General Policy on Overtime

Overtime shall be an **exception** to the regular work schedule. An employee should only be required to work overtime on an occasional basis to meet a sudden increase in the workload, to overcome productive time lost due to some mechanical failure, or to meet the demands of a crisis situation.

Overtime is defined as all hours worked in excess of 40 hours within a seven (7) consecutive day work period, which begins at 12:01 a.m. on Sunday and ends at 12:00 midnight on Saturday. In computing the 40-hour base, hours worked do not include leave time, holiday or other paid or unpaid leave. In instances where the combination of hours worked exceed 40 hours, for non-exempt employees, those hours in excess of 40 shall be compensated at one and one-half times (1.5) the hourly rate of the employee. All requests for overtime must be submitted to the supervisor and approved in advance. Overtime shall not be worked, unless approved by the supervisor in advance.

When any department and/or individual is found to be consistently charging overtime, the functions of that department and/or individual should be reviewed by appropriate management. Every attempt should be made to avoid the repetitive and chronic use of overtime.

It shall be the responsibility of the department head to determine that the provisions of this policy are administered in the best interest of the College of Charleston and in accordance with the Fair Labor Standards Act (FLSA). Although each manager is responsible for the requesting and authorizing of overtime, it is equally important to control unauthorized overtime for non-exempt employees. Unauthorized work time must be counted as hours worked for non-exempt employees, even if the responsible manager could have stopped it but did not, or if he/she knew or had reason to know of the work. Non-exempt employees who work unauthorized overtime may be subject to disciplinary action in accordance with the College's Code of Conduct.

Overtime Pay/Compensatory Time (Non-exempt Employees)

A permanent, non-exempt employee shall be paid no less than one and one-half (1.5) times his/her regular rate of pay for all hours worked over 40 in a workweek or granted compensatory time at a rate of one and one-half (1.5) hours for each hour of overtime worked. Permanent, non-exempt employees shall not receive additional compensation or any compensatory time for hours worked between 37.5 and 40.0 hours per workweek.

Compensatory time off, in the sole discretion of the supervisor, is an acceptable alternative to overtime compensation for permanent, non-exempt employees. If such work is other than in a public safety activity, an emergency response activity or a seasonal activity, an employee engaged in such work may not accrue more than 240 hours of compensatory time (certain seasonal employees may accrue up to 480 hours of compensatory time). Any employee who has accrued 240 hours (or 480 hours for certain seasonal workers) of compensatory time shall, for additional overtime hours of work, be paid overtime compensation at the rate of 1.5 times their normal pay rate in the employee's next regular paycheck.

Compensatory time must be scheduled and approved in advance. The accrual of compensatory time will be based upon hours worked as recorded on the timesheet. The usage of compensatory time should be reported on the timesheet when taken.

Public Safety employees may accrue up to 480 hours of compensatory time. Any Public Safety employee who has 480 hours of compensatory time shall, for additional overtime hours be paid overtime compensation at the rate of 1.5 times their normal pay rate during the shift worked.

If a non-exempt employee accepts a position that is considered exempt either within the employee's own agency 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 years of employment or the final regular rate received by the employee, whichever is higher.

Overtime/Compensatory Time May Not Be Waived (Off the record adjustments)

The requirements that overtime pay must be paid or compensatory time granted to non-exempt employees after 40 hours of work in a workweek, shall not be waived by agreement between the supervisor and the employee.

Compensatory Time (Exempt Employees)

Although not eligible for overtime compensation, exempt employees may receive compensatory time off for hours worked, for time spent traveling, or for attendance at lectures, meeting, training programs, etc., in excess of the normal workweek (40 hours per week). It is expected that exempt employees will experience a certain amount of "casual overtime" in the performance of their duties. "Casual overtime" refers to time worked in excess of 40 hours in a workweek which the employee believes is necessary to accomplish an assignment or task, although the hours worked are not specifically required by the supervisor and/or department head. "Casual overtime" is not compensable through monetary compensation nor compensatory time.

On those occasions when it becomes necessary for a supervisor and/or department head to require an exempt employee to work excessive hours, in excess of forty (40) hours during the recognized workweek, on a given project or event, the supervisor may authorize compensatory time. Compensatory time must be scheduled and approved in advance of the time worked. Supervisors are responsible for maintaining a record of compensatory time earned and taken.

NOTE: If authorized, it must be at a rate of one (1) hour of compensatory time for each hour worked in excess of 40.0 in the official workweek. Exempt employees cannot be paid for overtime.

Upon termination of employment, exempt employees shall not be paid for unused compensatory time accrued.

Departments/Offices Affected by the Policy

All departments and offices are affected by this Policy.

Procedures Related to the Policy

Related Policies, Documents or Forms

Family and Medical Leave Act (FMLA) Policy
Hours of Work Policy – Law Enforcement
State Human Resources Regulations
The Fair Labor Standards Act (FLSA)

Issue Date: 12/11/11 Date of Policy Revision: 11/22/16	Next Review Date: 11/22/21
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POLICY APPROVAL

(For use by the Office of the Board of Trustees or the Office of the President)

Policy Number:

President or
Chairman, Board of Trustees



Date: 8-2-17