

**SOUTHERN WEST VIRGINIA COMMUNITY AND TECHNICAL COLLEGE
BOARD OF GOVERNORS
SCP-2575**

SUBJECT: Overtime and Compensatory Time

REFERENCE: Title 135, Higher Education Policy Commission, Series 55, *Human Resources Administration*, West Virginia Code §18B-7-10, “Compensatory time off in lieu of overtime; written agreement; other;” Fair Labor Standards Act of 1938, 29 U.S.C. §§201 to 219

ORIGINATION: February 17, 2004

EFFECTIVE: March 19, 2019

REVIEWED: November 1, 2018

SECTION 1. PURPOSE

1.1 The purpose of this policy is to develop an approval process and procedure for requesting and using compensatory time and overtime at Southern West Virginia Community and Technical College.

SECTION 2. SCOPE AND APPLICABILITY

2.1 This policy, as it relates to overtime and compensatory time, shall apply to all non-exempt employees. This policy, shall not apply to exempt employees as relates to overtime, but shall apply to those exempt employees who are eligible for compensatory time according to Title 135, Higher Education Policy Commission, Series 55, *Human Resources Administration*.

SECTION 3. DEFINITIONS

3.1 Non-Exempt Employee – Those employees who are covered by the overtime provisions of the Fair Labor Standards Act (FLSA).

3.2 Exempt Employee – Those employees who are not covered by the Fair Labor Standards Act for overtime purposes.

3.3 Workweek – A regularly recurring period of one hundred sixty-eight (168) hours in the form of seven (7) consecutive twenty-four (24) hour periods. It begins on Saturday at 12:01 a.m. and ends on the following Friday at 12:00 midnight. The president or president’s designee may establish a workweek different from this provided that record keeping requirements are met as set forth in relevant law. A work schedule of thirty-seven and one-half (37.5) hours will be established within a workweek. Lunch periods are unpaid and are typically one (1) hour in duration for five-day work weeks and ½ hour duration for four-day work weeks,

3.4 Overtime – Overtime is required by federal and state law for time worked in excess of 40 hours per workweek. Only actual hours worked are included in calculating overtime. Pay which is received for holidays, annual leave, sick leave, or work release time is not counted as working hours for purposes of overtime. Overtime is calculated at one and one-half times the regular rate of total pay (including increment pay). Hours worked between 37.5 hours per week and 40 hours per week are paid at the employee’s regular base hourly rate. As a general rule, overtime work must be approved in advance and requests to work

overtime are made using the appropriate form. However, there may be occasions when advance approval may not be possible. In these rare instances, an employee is required to complete the appropriate form immediately thereafter and provide an explanation as to why the form requesting overtime could not have been submitted in advance. Regardless, non-exempt employees will be compensated for the overtime hours actually worked.

- 3.5 Compensatory Time – Time taken off work in lieu of receiving payment in the form of overtime pay. Compensatory hours are calculated at one and one-half times the hours actually worked in excess of 40. Hours worked between 37.5 and 40 hours per week are compensated on an hour for hour basis. Compensatory time must be requested and approved in advance. Use of compensatory time must also be requested and approved in advance.

SECTION 4. POLICY

- 4.1 It shall be the policy of the Board of Governors to allow eligible employees of Southern West Virginia Community and Technical College to receive compensatory time in lieu of overtime to the extent authorized by federal and state law and by procedural rule of the West Virginia Council for Community and Technical College Education. As a general rule, an employee may not work overtime unless approved in advance per this policy. However, there may be occasions when advance approval may not be possible. In these rare instances, an employee is required to complete the appropriate form immediately thereafter and provide an explanation as to why the form requesting overtime could not have been submitted in advance. Regardless, non-exempt employees will be compensated for the overtime hours actually worked. A written agreement between the employee and the institution shall be completed when the employee chooses compensatory time off in lieu of overtime pay. The written agreement may be modified at the request of either the employee or employer at any time but under no circumstances shall a change in the agreement deny the employee compensatory time heretofore acquired.

SECTION 5. BACKGROUND OR EXCLUSIONS

- 5.1 Exempt employees are not eligible for compensatory or over time pay. HOWEVER, when an exempt employee is required to work on any designated institutional holiday, that employee shall be given substitute time off on an hour-for-hour worked basis. Title 135, Higher Education Policy Commission, Series 55, *Human Resources Administration*.

SECTION 6. GENERAL PROVISIONS

- 6.1 Work Hours Beyond 37.5 Per Week – If it is essential that a non-exempt employee work more than 37.5 hours per week, the extra work must be requested and approved in advance by the immediate supervisor and the Vice President for Finance and Administration, or their designee. The employee and immediate supervisor must mutually agree upon the method of compensation, choosing between the options of receiving monetary payment for extra hours worked, or receiving compensatory time off in lieu of pay. Depending upon the agreed upon method of compensation, the approval process is as follows:
- 6.1.1 Requests to work extra hours in exchange for monetary payment must be approved by the Vice President for Finance and Administration.
 - 6.1.2 Requests to work extra hours in exchange for compensatory time off must be approved by the immediate supervisor.
 - 6.1.3 Maximum Accumulation – An employee of Southern West Virginia Community and Technical College may accumulate a maximum of 37.5 hours of compensatory time with the supervisor's

approval. Any hours beyond this must be approved by the Vice President for Finance and Administration.

6.1.4 Public Safety, Seasonal, or Emergency Workers – Employees in these categories may accumulate up to 75 hours and shall be paid for all hours worked above the maximum accrual.

6.2 Time Frame for Use of Compensatory Time – Accrued compensatory time must be used by the employee prior to using annual leave. Compensatory time must be used within one year of accrual. The use of compensatory time off must be requested in advance. Approval of the request shall be contingent upon whether it will unduly disrupt the operation of the institutional department. When compensatory accrual reaches 37.5 hours, the supervisor must schedule the time off within thirty (30) days.\

6.3 Payment at Termination or Resignation – Any unused compensatory time shall be paid to the employee at the final regular rate of pay received by such employee or at the average regular rate received by the employee during the last three years of employment, whichever is higher.

6.4 Compensatory/Over Time for Holiday Work:

6.4.1 Non-Exempt Employee – When a non-exempt employee is required to work on any designated institutional holiday, that employee shall receive regular pay for that holiday, plus substitute time off or additional pay at the rate of one and one-half (1½) times the number of hours actually worked. The time off must be used within a six-month period following the holiday.

6.4.2 Exempt Employee – When an exempt employee is required to work on any designated institutional holiday, that employee shall be given substitute time off on an hour-for-hour worked basis.

SECTION 7. RESPONSIBILITIES

7.1 Primary Responsibility – The Office of Human Resources shall have primary responsibility for the implementation and oversight of the provisions of this policy. Employees and supervisors are responsible as follows:

7.1.1 Employees – Non-exempt employees may not work hours beyond his/her regular schedule unless requested to by his/her immediate supervisor, or without an approved request to work additional hours.

7.1.2 Supervisors – Supervisors are responsible for compliance with all sections of this policy. He/she is responsible to make sure his/her employees do not work beyond their regularly scheduled work hours per week. Should an employee be required to work additional hours, the supervisor is responsible for ensuring the appropriate request and approvals are properly completed. Supervisors are responsible for monitoring employee compensatory and overtime accruals to avoid the accumulation of unfunded liability for compensation owed to employees.

7.2 Procedures for requesting Overtime or Compensatory Time – The following procedures will be followed for administering overtime and compensatory time provisions of this policy.

7.2.1 The “Request to Work Additional Hours” must be completed by either the employee or the supervisor. The employee and supervisor must mutually agree upon the method of compensation for the additional hours to be worked. Options are either monetary pay, compensatory time off, or schedule adjustment.

- 7.2.2 Should an employee not wish to work for compensatory time off or be compensated with a schedule adjustment, the supervisor has the options to inquire if other employees would be interested in performing the work, delay the task until the next workday, or to request approval to pay overtime. The supervisor can request and even suggest the employee work for compensatory time off in lieu of overtime pay.
- 7.2.3 Schedule Adjustment – The supervisor and employee may agree to temporarily adjust the employee’s work schedule in order to avoid the accumulation of compensatory time or overtime. Schedule adjustments must be made within the same work week.
- 7.2.4 Supervisor will consult with the Vice President for Finance and Administration regarding the need and available budget for the extra work. Supervisors are reminded that although payment is not in dollars, compensatory time has associated costs to the institution. The Vice President for Finance and Administration must provide signature approval for all “Request to Work Additional Hours” where monetary pay is the chosen method of compensation.
- 7.2.5 Approval is required from supervisor and Vice President for Finance and Administration, or their designee regarding the need prior to having the work performed.
- 7.2.6 The original “Request to Work Additional Hours” will be sent to Human Resources immediately after approval.
- 7.2.7 As a general rule, a separate Request to Work Additional Hours is required for each day an employee is requested to work in excess of the normal work day. An exception might be when the supervisor knows beforehand that the tasks will take several days during the workweek to complete and that a certain number of hours will be required. Multiple day requirements for overtime or compensatory time should be indicated as such on the form.
- 7.2.8 If overtime pay is agreed upon as the method of compensation, the employee will include the additional hours worked on his/her time card at the end of the applicable pay period. A copy of the approved “Request to Work Additional Hours” will be submitted with the time card.
- 7.2.9 Payroll will calculate the amount of pay and will add the additional wages to the employees next available payroll.
- 7.2.10 If compensatory time is agreed upon as the method of compensation, the employee will turn in a time card at the end of the month showing the additional hours worked. Compensatory hours worked are to be indicated with the code “C” for “comp time.” A copy of the approved “Request to Work Additional Hours” will be submitted with the time card.
- 7.2.11 The employee must make a request for approval to use accrued compensatory time to the supervisor prior to taking compensatory time off. Approval is contingent upon the needs of the department or institution. Accrued compensatory time must be used prior to using annual leave and must be used within one year of date earned.

SECTION 8. CANCELLATION

- 8.1 None.

SECTION 9. REVIEW STATEMENT

