



COMPENSATORY TIME (OVERTIME)

Authority:	Chancellor
History:	Revised April 2018; Revised November 2012; Revised December 1, 2009; Revised and reformatted, January 1, 2007; Supersedes former Policy No. HR 2.10a; Original effective date April 5, 2002.
Source of Authority:	UNC Policy 300.3.1[R]
Related Links:	Office of State Human Resources Manual: Compensatory Time; Hours of Work and Overtime Compensation; HR Forms
Responsible Office:	Human Resources

I. Purpose

The purpose of this policy is to provide uniform guidelines for the accrual, use, and payment of compensatory time.

II. Scope

All EHRA and SHRA employees holding permanent, probationary, trainee, and time-limited appointments are covered by this policy. Temporary EHRA and SHRA employees are paid for time worked and do not accrue compensatory time. Neither permanent nor temporary academic year faculty accrue compensatory time and are not covered under this policy.

III. Policy

Compensatory time may be accrued by any SHRA exempt or non-exempt or EHRA non-exempt employee. The following rules govern the accrual, disposition, and required record keeping of compensatory time.

A. Accrual/Expensing of Compensatory Time for SHRA and EHRA Wage-Hour Non-Exempt Employees

All employees who are designated as wage-hour non-exempt under the Federal Fair Labor Standards Act (FLSA) must record all hours worked and must receive extra compensation for hours worked in excess of their regular schedule. It is State and university policy to give time off in lieu of monetary compensation except as required below.

Hours worked in excess of the employee's regular schedule fall into two categories: extra hours at straight time (gap hours) and extra hours at time and a half (overtime hours).

1. Gap Hours

- a. In general, gap hours are extra hours worked outside of the regular work schedule that do not result in the employee working more than 40 hours in the workweek. For law enforcement employees, gap hours are those specified in Section IV of this policy. Employees who work gap hours receive gap hours compensatory time.
- b. Gap hours occur for permanent FLSA-non-exempt employees whose regular work schedule is less than 40 hours per week. Extra hours worked during the university workweek that do not reach the 40 hour threshold for overtime would be compensated at straight time (gap hours).
- c. Gap hours compensatory time may be accrued for a maximum of 12 months or 240 hours (straight time). At any point that gap hours compensatory time exceeds 240 hours, the excess must be paid in the next payroll cycle. Also, any gap hours compensatory time that is not taken within 12 months of the month it is earned, must be paid.

2. Overtime Hours

- a. Overtime hours are hours worked by FLSA non-exempt employees in excess of 40 in the university designated workweek, which must be compensated at time and one half. Non-exempt employees may not work overtime without receipt of prior approval from their supervisor. Departments are responsible for managing work time so that non-exempt employees do not perform unscheduled overtime work.
- b. Overtime compensatory time may be accrued for a maximum of 12 months or 240 hours (160 hours straight time). At any point that overtime compensatory time exceeds 240 hours, the excess must be paid in the next available payroll. Also, any overtime compensatory time that is not taken within 12 months of the month it is earned, must be paid in the next payroll cycle.
- c. The hourly rate of pay is obtained by dividing the annual salary by 2080 hours (52x40), prorated if less than full time. The hourly rate used in computing overtime must include all remuneration for employment paid to, or on behalf of, the employee, except payments specifically excluded by the FLSA. Payments that are not excluded and must be included in the hourly rate are: (a) Shift Premium Pay; (b) Longevity Pay; and (c) On-Call Compensation. These payments must be included in order to comply with the provisions of the FLSA. The adjusted overtime rate of pay due to Longevity pay will be made once a year.
- d. In order to calculate the overtime rate correctly, overtime shall be paid whenever employees earn shift premium and/or on-call pay in the same pay period as overtime.

3. Exceptional Amount of Compensatory Time Accrued

Any scheduled work that results in overtime or compensatory time accrual should only be authorized as necessary to meet operational needs.

If at any time an employee has built up an exceptional amount of comp time, a department may elect to pay all or part of the comp time rather than award time off based on business need and the availability of funds (not employee preference). Additionally, departments may manage comp time by requiring the employee to take the time off.

4. Separation or Department Transfer

All unused comp time for wage-hour non-exempt employees must be paid when the employee separates from the university. It must also be paid by the department where the comp time was earned if the employee transfers to another department within the university (unless the receiving department agrees to accept the comp time.)

B. Accrual/Expensing of Compensatory Time for SHRA Wage-Hour Exempt Employees.

Divisions/Departments must make an election as to whether exempt employees will accrue and track comp time, or use professional scheduling to balance work time. The options are:

1. Option 1 -Track Exempt Comp Time

Neither the FLSA nor State policy requires compensation for hours worked in excess of employees' regular schedule be compensated in any way. However, management may allow SHRA exempt employees to track hours worked in excess of their regular schedule and accrue time at no more than an hour-for-hour basis. Hours accrued:

- a. may be taken with supervisory approval;
- b. are accrued for a maximum of 12 months, then forfeited;
- c. are never paid;
- d. cannot be transferred to another State agency; and
- e. cannot be transferred to other UNCW departments.

2. Option 2 - Utilize Professional Scheduling

The university seeks to provide the opportunity for exempt employees to balance their professional and personal commitments. It is understood that a full-time exempt employee will work a minimum of 40 hours per week; however, in the scope of exempt employees' normal jobs, work outside the usual schedule is often required. This might include evening meetings, extended travel, or work hours well beyond 40 in a given week. In utilizing professional scheduling, exempt employees may (and with supervisory approval) come in later than usual, take additional lunch time, or leave work early to provide some balance to work time and personal time without having to take vacation, sick, or bonus leave. While all

employees who earn leave must keep records of when they use part of the leave balances, professional scheduling does not require extra record keeping.

C. Use of Compensatory Time

Overtime compensatory time and gap hours compensatory time shall be taken before any vacation or bonus leave. All use of compensatory time requires supervisory approval. Use of overtime compensatory time cannot be denied to an employee unless the compensatory time off will unduly disrupt university operations. Supervisors may also, based on business needs, schedule the use of comp time for employees.

IV. **Special Provisions for Law Enforcement**

The term “employee in law enforcement activities” refers to any employee (1) who is a uniformed or plainclothes member of a body of officers and subordinates who are empowered by statute or local ordinance to enforce laws designed to maintain public peace and order and to protect both life and property from accidental or willful injury, and to prevent and detect crimes, (2) who has the power of arrest, and (3) who is presently undergoing or has undergone or will undergo on-the-job training and/or a course of instruction. Not included in the term “employee in law enforcement activities” are the so-called “civilian” employees of law enforcement agencies that engage in such support activities as those performed by dispatchers.

Because of the varied nature of law enforcement activities, Wage and Hour Law permits a 28 day work period, as opposed to the standard one week period. UNCW has elected the 28 day work period pursuant to section 207(k) of the FLSA and 29 CFR Part 553 and Office of State Human Resources policy. The following provisions apply:

- (1) The “work period” will consist of 28 consecutive days. The employee shall receive compensation at a rate of one and one-half times the regular hourly rate at which employed for hours worked in excess of 171 during a work period. (The regular hourly rate is the rate computed on a 40-hour basis plus shift premium pay, if any.)
- (2) Nonexempt employees in law enforcement positions who work more than 171 hours in a work period may be given compensatory time off in lieu of cash payment for these overtime hours worked.
- (3) Overtime compensatory time off earned must be used no later than 180 days from the date the compensatory time off was earned.
- (4) Overtime compensatory time off earned but not used within 180 days from its being earned must be paid for in cash in the first pay period following the expiration of the 180 days.
- (5) Employees cannot accumulate more than 480 hours of compensatory time. Any compensatory time earned in excess of 480 hours must be paid in cash as earned.

For non-exempt law enforcement employees, gap hours are those hours between 160 and 171 hours worked before overtime compensation begins. Such employees will accrue gap hours compensatory time for hours worked between 160 and 171 in accordance with Section III.A.1 of this policy.