

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

SUBJECT: Overtime and Compensatory Time

REFERENCE: 135 C.S.R. 55, *Human Resources Administration*, West Virginia Code §§18B-7-10 and 21-5C-1, et seq., Fair Labor Standards Act of 1938, 29 U.S.C. §§201 to 219

ORIGINATION: February 17, 2004

EFFECTIVE: March 19, 2019

REVIEWED: April 12, 2024

SECTION 1. PURPOSE

1.1 The purpose of this policy is to develop a process and procedure in accordance with federal and State wage and hour laws for requesting, approving or denying, 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, applies to all non-exempt employees. This policy does not apply to exempt employees as relates to overtime but does apply to those exempt employees who are eligible for compensatory time according to 135 C.S.R. 55, *Human Resources Administration*.

SECTION 3. DEFINITIONS

- 3.1 Non-Exempt Employee – For purposes of this policy only, an employee eligible for overtime compensation in accordance with West Virginia’s Minimum Wage and Maximum Hour Standards, W. Va. Code § 21-5C-1, et seq.
- 3.2 Exempt Employee – For purposes of this policy only, an employee ineligible for overtime compensation in accordance with West Virginia’s Minimum Wage and Maximum Hour Standards, W. Va. Code § 21-5C-1, et seq.
- 3.3 Workweek – A regularly recurring period of 168 hours in the form of seven consecutive 24-hour periods. It begins on Saturday at 12:00 a.m. and ends on the following Friday at 11:59 p.m. 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 37.5 hours will be established within a workweek. Lunch periods are unpaid and are typically one hour in duration for five-day work weeks and one-half hour duration for four-day work weeks.
- 3.4 Overtime – Compensation paid for hours worked in excess of 40 hours per workweek. Overtime is calculated at one and one-half times the regular rate of total pay (including increment pay).
- 3.5 Compensatory Time or Compensatory Time Off – 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.

- 3.6. Regular Rate of Pay – An employee’s yearly gross wages divided by 1,950 hours or by the proportionate number of hours for which the employee is employed to work (e.g., a person occupying a .50 FTE position will have gross wages divided by 1,040 hours).

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 the legislative rule of the West Virginia Council for Community and Technical College Education (Council) entitled *Human Resources Administration*.
- 4.2 As a general rule, an employee may not work overtime unless approved in advance by his or her supervisor. In the rare instances where the employee cannot obtain advance approval to work overtime, he or she shall complete the appropriate form immediately thereafter and provide an explanation as to why he or she could not obtain the requisite approval in advance. Regardless, non-exempt employees will be compensated for the overtime hours actually worked.
- 4.3 The employee and his or her supervisor shall complete a written agreement 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.
- 4.4 Judgments regarding work assignments, scheduling, and overtime are the exclusive right of the employee’s supervisor.

SECTION 5. BACKGROUND OR EXCLUSIONS

- 5.1 Exempt employees generally are not eligible for compensatory or overtime pay. However:
- 5.1.1 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 in accordance with the Council’s *Human Resources Administration* rule, 135 C.S.R. 55 § 10.2.
- 5.1.2 Supervisors may exercise professional discretion to allow overtime compensation for exempt employees in certain extraordinary circumstances when approved by the President or his or her designee.
- 5.1.3 Supervisors may allow exempt employees working unusual or excessive hours some flexibility to adjust their work schedule during regular working hours, if the workload permits, upon approval by the President or his or her designee.

SECTION 6. GENERAL PROVISIONS

- 6.1 West Virginia Minimum Wage and Maximum Hour Standards mandate that non-exempt employees are to be paid at the rate of one and one-half their regular rate for any hours actually worked in excess of 40 in a workweek.
- 6.1.1 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 calculating overtime.
- 6.1.2 Hours worked between 37.5 hours per week and 40 hours per week are paid at the employee’s regular rate of pay.

- 6.2 Work Hours Beyond 40 Per Week – If it is essential that a non-exempt employee work more than 40 hours in a workweek, the employee must request to work overtime prior to working any extra hours, and the employee’s supervisor and the Chief Finance Officer or their designees must approve in advance such overtime. 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:
- 6.2.1 Requests to work extra hours in exchange for monetary payment must be approved by the Chief Finance Officer.
 - 6.2.2 Requests to work extra hours in exchange for compensatory time off must be approved by the immediate supervisor.
 - 6.2.3 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 Chief Finance Officer.
 - 6.2.4 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.
- 6.3 Time Frame for Use of Compensatory Time:
- 6.3.1 Employees must use accrued compensatory time prior to using annual leave.
 - 6.3.2 Employees must use compensatory time within one year of accrual.
 - 6.3.3 Employees must request the use of compensatory time off in advance of taking it, just as they are required to request annual leave in advance. The supervisor’s approval of the request shall be contingent upon whether the employee’s use of such leave will unduly disrupt the operation of the institutional department.
 - 6.3.4 When an employee’s compensatory time accrual reaches 37.5 hours, he or she shall be paid overtime compensation for additional overtime hours of work. If the College pays the employee for accrued compensatory time, such compensation shall be paid at the regular rate of pay earned by the employee at the time the employee receives such payment.
- 6.4 Payment at Termination or Resignation – The College shall pay any unused compensatory time 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.
- 6.5 Compensatory/Overtime for Holiday Work:
- 6.5.1 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 times the number of hours actually worked. The time off must be used within a six-month period following the holiday.
 - 6.5.2 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.
- 6.6 Supervisors shall notify all employees that overtime work may be required and should make every effort to give advance notice to employees when overtime work is necessary.

- 6.7 Any employee who refuses or is unwilling to work overtime when specifically directed to do so by his or her supervisor may be subject to disciplinary action.

SECTION 7. RESPONSIBILITIES

- 7.1 Primary Responsibility – The Office of Human Resources has primary responsibility for the implementation and oversight of this policy. Employees and supervisors are responsible as follows:
- 7.1.1 Employees – Non-exempt employees may not work hours beyond their regular schedules unless required to by their immediate supervisors or unless they have requested in advance and received approval to work additional hours.
 - 7.1.2 Supervisors – Supervisors are responsible for ensuring that all employees adhere to wage and hour requirements by:
 - 7.1.2.a Establishing work schedules in a manner that minimizes the need for overtime and requires compliance with reasonable standards of performance before necessitating work in excess of 40 hours per week;
 - 7.1.2.b Exercising control to see that work is not performed if not required by the College;
 - 7.1.2.c Directing employees not to work unauthorized overtime and disciplining employees who fail to follow this directive; and
 - 7.1.2.d Ensuring that employees properly complete and submit the requests and forms in compliance with this policy.
- 7.2 Procedures for Requesting Overtime or Compensatory Time – Employees and supervisors shall follow the following procedures for administering overtime and compensatory time:
- 7.2.1 Either the employee or the supervisor shall complete the “Request to Work Additional Hours.” 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.
 - 7.2.3 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 The supervisor will consult with the Chief Finance Officer regarding the need and available budget for overtime work as although payment is not in dollars, compensatory time has associated costs to the institution. The Chief Finance Officer must provide signature approval for all “Request to Work Additional Hours” where monetary pay is the chosen method of compensation.
 - 7.2.5 Prior approval is required from the supervisor and Chief Finance Officer or their designees regarding overtime prior to the employee performing the work.
 - 7.2.6 The supervisor shall send the original “Request to Work Additional Hours” to Human Resources immediately after approval.
 - 7.2.7 A separate Request to Work Additional Hours is required for each day an employee works in excess of the normal workday: *Provided*, That 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, the

supervisor shall note such requirements the form and submit one form for multiple days.

- 7.2.8 If overtime pay is agreed upon as the method of compensation, the employee shall include the additional hours worked on his or her timecard at the end of the applicable pay period and submit a copy of the approved "Request to Work Additional Hours" with the timecard.
- 7.2.9 Payroll will calculate the amount of pay and will add the additional wages to the employee's next available paycheck.
- 7.2.10 If compensatory time is agreed upon as the method of compensation, the employee will turn in a timecard at the end of the pay period showing the additional hours worked and submit a copy of the approved "Request to Work Additional Hours" with the timecard. Compensatory hours worked are to be indicated with the code "COMPT" for "Comp Time."

SECTION 8. CANCELLATION

8.1 None.

SECTION 9. REVIEW STATEMENT

9.1 This policy shall be reviewed on a regular basis with a time frame for review to be determined by the President or the President's designee. Upon such review, the President or President's designee may recommend to the Board that the policy be amended or repealed.

SECTION 10. SIGNATURES

President Date

Attachments: SCP-2575.A, *Request to Work Additional Hours*

Distribution: Board of Governors (12 members)
www.southernwv.edu

Revision Notes: October 2007 – Reformatted policy. Corrected titles. No substantial revisions.

August 2012 – Minor changes in titles. Clarification of lunch periods for four and five-day workweeks.

November 2018 – Corrected citation to statute. Minor changes to Section 3, Definitions, Section 4, Policy, and Section 6, General Provisions.

April 2024 – Workweek hours updated, titles updated, changes to references, section added regarding the WV Minimum Wage and Maximum Hours Standards, and grammatical changes.