



Overtime Policy for FLSA Non-Exempt Employees

Policy Number: PP 3-1

Effective Date: September 1, 2018

Approved By: Roger L. Stancil, Town Manager

POLICY

Employees designated as non-exempt under the Fair Labor Standards Act may be required to work additional hours beyond their scheduled work shifts as necessitated by the needs of the Town. Department Heads are responsible for determining when additional hours are required. When additional work hours cause a non-exempt employee to move into overtime status, then the employee shall be paid overtime pay in accordance with the Fair Labor Standards Act. The Town's Public Safety departments may also offer compensatory time in accordance with applicable laws.

PURPOSE

The Town must provide services to the community, which may require employees to work overtime hours. This policy is intended to provide guidance to managers and employees to assist them in the management and application of overtime, and to ensure equitable application of and compliance with state and federal laws. The Director of Human Resource Development is authorized to issue procedures consistent with this policy.

R.E.S.P.E.C.T. VALUES



Responsibility: We acknowledge that our duties impact the jobs of many other employees. We take ownership over our roles within the organization as a way to demonstrate our consideration for the time and efforts of our fellow employees as well as pride in our own work.

APPROVAL

Roger L. Stancil, Town Manager



Overtime Procedures

Policy Number: PP 3-1

Effective Date: September 1, 2018

Approved By: Cliff Turner, Human Resources Development Director

Overtime Procedures

These procedures are issued by the Director of Human Resource Development to implement the Overtime Policy, PP 3-1, issued by the Chapel Hill Town Manager. These procedures may be periodically updated.

All Employees classified as non-exempt are covered under this policy.

A. General Information

1. Eligibility for Overtime Compensation: All positions in the Town are classified as either exempt or non-exempt, according to Federal Labor Standards Act (FLSA) regulations. All non-exempt employees have a designated FLSA pay cycle which governs overtime payment.
 - a) Public Safety Employees: Public Safety non-exempt employees are governed by the following provisions for determining overtime.
 - i. Law Enforcement: are considered to be in overtime status when their total hours worked exceed 171 in a 28-day workweek period.
 - ii. Firefighters: Non-exempt employees are considered to be in overtime status when their total work hours worked exceed 212 in a 28-day workweek period.
 - b) All other non-exempt employees: Other non-exempt employees are considered to be in overtime status when their total hours worked exceed 40 during a 7-day workweek period.
2. Overtime refers to hours actually worked: Hours paid for, but not worked, are not counted in overtime calculations. This includes, but is not limited to, vacation leave, sick leave, paid town holiday leave, paid parental leave, and on-call compensation. Only time actually worked in the defined FLSA work period qualifies for overtime calculation.
3. Overtime when Travel is involved: The Town complies with all relevant state and federal guidelines when compensating non-exempt employees for travel. [Please refer to the US Department of Labor, Wage and Hour Division, for more information.](#) For assistance in applying these guidelines, please confer with HRD or Business Management.
4. Straight Time: Overtime pay is only due when the total hours worked in the FLSA work period exceed the maximums set by the FLSA. It is not due just because an employee works more hours than his normal schedule. For example, an employee may normally have a 37.5 hour weekly work schedule. This employee might work an extra 2.5 hours in a given week, for a total of 40 hours. These extra 2.5 hours will be paid at straight time rates. Even though the employee worked 2.5 hours in excess of his normal schedule, he still did not work more than 40 hours total in the 7 day FLSA work period.

PROCEDURES

If this same employee worked 5 extra hours during that week, for a total of 42.5 hours, then he would be paid for 40 hours at straight time, and 2.5 hours at 1.5 times regular pay.

The same standards apply for part time employees. A part time employee normally scheduled for 25 hours per week might work 32 hours one week at the supervisor's request. Those additional 7 hours are paid at straight time, not at overtime rates, because the total hours worked do not exceed the 7 day, 40 hour limits set by the FLSA.

5. Overtime: Overtime is earned and paid in 15 minute increments.

B. Managing Overtime:

1. Advance Approval: Overtime work should be authorized by the department in advance of the work performed. Unauthorized overtime work must still be compensated. However, unauthorized overtime (unless an emergency) is a violation of this policy and employees may be subject to disciplinary action.

a) Emergencies: the Town recognizes that emergencies might arise which require an employee to work overtime without prior authorization. However, the employee is responsible for informing the supervisor as soon as possible of the situation.

2. Management of Schedule to Avoid Overtime: Departments have the authority to arrange or modify an employee's schedule within the FLSA pay cycle to avoid overtime. Whenever possible, departments will manage an employee's schedule to avoid overtime. Such management may include having an employee report to work late or leave early.

C. Types of Overtime Compensation for Non-Exempt Employees:

1. Overtime Pay: Overtime is paid at the rate of 1.5 times the hourly rate for all hours worked in excess of the maximum allowed by the applicable FLSA pay cycle.

2. Compensatory Time: Federal law allows public sector employers to offer compensatory time to their non-exempt employees in lieu of overtime pay. However, the Town only allows compensatory time to be offered to non-exempt Public Safety employees as defined below.

D. Special Provisions for Compensatory Time for Non-Exempt Public Safety Employees:

1. Offered by Department at its Discretion: Public Safety Departments may, at their discretion, offer compensatory time to non-exempt employees in lieu of overtime pay. Some Public safety Departments might choose not to offer compensatory time. Compensatory time is accrued at the rate of 1.5 hours for every hour of overtime the employee works during the applicable pay cycle.

a) Must be offered to all: if compensatory time is offered in the department, it must be offered to all qualifying non-exempt employees.

b) Department must develop a Departmental Procedure: If a Public Safety Department wants to offer compensatory time to non-exempt employees, it must develop a departmental procedure regarding compensatory time. Any department procedure must be reviewed and approved by the Town Manager's office for consistency with the Town's policies.

2. Employee not required to accept compensatory time: A non-exempt Public Safety employee is **not** required to accept compensatory time in lieu of overtime pay.

a) Condition of Employment: *However, If an employee has agreed to accept compensatory time in lieu of overtime pay as an expressed condition of employment, then the employee will receive compensatory time and not overtime pay when the hours worked exceed the maximums allowed by the FLSA for the relevant work period as outlined in Paragraph A 1 of this policy.*

3. Maximum Balances: Non- exempt public safety employees may carry maximum compensatory time balance of one work-week equivalent. For example, a full time firefighter has a workweek equivalent of 56 hours, which means that they can carry up to 56 hours of compensatory time. Any amounts beyond the maximums will be paid out at overtime pay rates.

4. Compensatory Time Use for Public Safety Non-Exempt Employees:

a) Required to be Used First for Annual Leave Requests: An employee's accrued compensatory time will be used first to satisfy the employee's request for any leave other than sick leave.

b) Optional Use for Sick leave: An employee can choose, but is not required, to use compensatory time instead of sick leave.

c) Increments of Use: Compensatory time is earned and used in fifteen minute increments.

5. Used when requested: An employee must be permitted to use compensatory time "within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the department." (*Electronic Code of Federal Regulations* <http://www.ecfr.gov>)

6. Situations Requiring Payout of Compensatory Time Balances:

a) Transfer to another position: when a non-exempt employee transfers to another position for any reason, all accrued compensatory time shall be paid out in full from the department where the compensatory time was earned.

b) Separation from Employment: Employees who leave Town employment with an accumulation of compensatory leave must be paid out for all accumulated compensatory leave at the employee's current hourly rate.

c) Hours beyond maximum allowed accrual: Additional hours accrued beyond the maximum allowed will be paid out at the end of the pay cycle at the applicable rate of pay.

d) Payout of accrued compensatory time: Any unused compensatory time as of December 31 will be paid out by the last pay period in January of the following year, bringing the employee's compensatory leave balance to zero.

PROCEDURES
CONT.

E. Compensatory Time Records For Public Safety Non-Exempt Employees:

1. Timesheets: Employees should enter all time actually worked on the correct date on their time sheets, whether or not it has been approved as compensatory time. Compensatory time used in a pay period should be shown on the timesheet in the “compensatory time” column to indicate that the department has approved its use.
2. Departmental Records: Each department shall assure that time sheets accurately reflect actual time worked and all leave properly coded. An approved time sheet completed in this fashion is considered a sufficient internal payroll record. **The payroll system records** shall be considered the official total of any employee’s compensatory time balances.
3. Procedures for Recordkeeping and Data Entry: Procedures for entering compensatory time records into the Town’s payroll database system are available from Business Management.
4. Recordkeeping Audits: Department Heads should monitor balances on a regular basis and maintain adequate records in the Town’s payroll database system, currently MUNIS. These records may be audited by Business Management or Human Resource Development at any time.
5. Disagreements Regarding Compensatory Time Balances and Use: Any disagreements between an employee and the Town on the accrual or use of compensatory time will be resolved using the Town’s dispute resolution processes.

FORMS/INSTRUCTIONS

Instructions for Entering Compensatory Time into Payroll

PROCEDURES
APPROVED BY

Cliff Turner, Human Resources Development Director



ADDITIONAL
CONTACTS

Human Resource Development 919-968-2700 or HR@townofchapelhill.org
Ombuds office 919-265-0806 or ombuds@townofchapelhill.org
Business Management 919-968-2712 payroll@townofchapelhill.org

DEFINITIONS

- A. Accrual: the rate at which an employee earns compensatory time.
- B. Compensatory time off - It is the policy of the town of Chapel Hill to pay non-exempt employees for all overtime hours worked. There is an exception for public safety employees, who may elect to receive compensatory time instead of overtime pay.
- C. Federal Labor Standards Act - A Federal Regulation that establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting employees in the private sector and in Federal, State, and local governments.

DEFINITIONS
CONT.

D. FLSA pay cycle – the period of time defined by the FLSA as the time period for calculating overtime pay. For all employees except police officers and 24 hour shift fire employees, the period of time used to determine whether overtime pay is required is a 7 day cycle, which runs from Tuesday to Monday. Police officers and 24 hours shift fire employees have a 28 day pay cycle. **The FLSA pay cycle is not necessarily the same as the Town’s payday schedule.**

E. Hourly rate - this is the hourly rate of the position as set out in the town’s pay plan. It is sometimes called base pay.

F. Hours worked – All hours that an employee is actually on duty in a prescribed workplace. For the purposes of calculating overtime, only hours actually worked are used. Vacation leave, sick leave, comp time, holiday time and other time paid for but not worked are not considered as hours worked and are not counted in overtime pay calculations. For more information, see the US Department of Labor, Wage and Hour Division, Regulation 785. <http://www.dol.gov/whd/regs/compliance/wh1312.pdf>.

G. Non-exempt – A non-exempt employee refers to not being exempt from provisions of the FLSA. Non-exempt employees are eligible to earn overtime pay or compensatory time off. For more information about this topic, see the Department of Labor, Wage and Hour Division Bulletins. http://www.dol.gov/whd/overtime_pay.htm.

H. Regular hourly rate - The regular hourly rate includes an employee’s base pay and certain kinds of pay such as shift differentials.

I. Public Safety Employee: An employee whose principal duties include services requiring specialized training in the area of police protection, firefighting services, or emergency medical services.

J. Straight-time pay - pay at the employee’s hourly rate.

K. Overtime pay - Pay at one and one half times the employee’s regular hourly rate, which in some instances may be slightly different from base pay.

L. Work Periods: FLSA provides that employees are paid overtime or accrue compensatory time on a “work period” basis, which is from 7 consecutive days to 28 consecutive days in length. Designated work periods for various types of employees is found in Section A.1 of this policy. See the definition for FLSA pay cycle. FLSA 29 CFR 553.224 Section 7(k)

RESPONSIBILITIES

All non-exempt employees are expected to:

- a) Be aware of the Town’s Overtime Policy
- b) Avoid working any overtime that hasn’t been approved in advance, except in emergency situations
- c) Accurately report all hours worked
- d) Ask questions about anything they do not understand
- e) Understand that they are entitled to paid overtime but may agree to accept compensatory in lieu of being paid if the department chooses to offer compensatory time
- f) Understand that they are not required to accept compensatory time unless it has been made an express condition of employment

RESPONSIBILITIES
CONT.

All Supervisors/Managers and Department Heads are expected to:

- a) Closely monitor overtime and minimize use of overtime
- b) Approve overtime in advance whenever possible
- c) Seek volunteers to work overtime before requiring anyone to do so
- d) Assign mandatory overtime fairly and equitably among qualified employees
- e) Approve overtime that has been worked in emergency situations
- f) Take appropriate corrective action when an employee works unauthorized overtime that is not in an emergency situation
- g) Allow an employee who has accrued compensatory time to take it off when requested, unless doing so unduly disrupts departmental operations

All Department Heads are expected to:

- a) Determine who may authorize overtime
- b) Assure that adequate back up documentation is kept of overtime approvals and usage.
- c) Work with the Payroll division of Business Management to develop adequate processes to document overtime and maintain records

The Payroll Division of Business Management is expected to:

- a) Assist Departments with questions related to payroll entry into the database
- b) Develop training and resource materials to help designated employees use the payroll system to track overtime and compensatory time
- c) Assist departments in developing departmental processes that coordinate with the payroll system

All Human Resource Development staff members are expected to:

- a) Provide guidance and assistance to all employees in understanding and correctly implementing overtime policies and procedures
- b) Help resolve conflicts related to overtime

FREQUENTLY ASKED
QUESTIONS

[FAQ for Overtime Pay](#)

SCOPE

This policy covers all FLSA non-exempt Town employees.

RELATED
INFORMATION

[Town of Chapel Hill Code of Ordinances Section 14-27.](#)
[US Department of Labor, Wage, and Hour Division, Fair Labor Standards Act.](#)
[US Department of Labor, Fact Sheet #22 "Hours Worked Under the Fair Labor Standards Act"](#)

POLICY HISTORY

Issued October 1984
Updated June 2, 1999
Reissued November 2000
Updated September 1, 2018

This policy replaces and supersedes any previous Town policies, departmental policies, handbooks, or unwritten policies or practices covering the same subject. Departmental policies in compliance with this policy are referenced in Section XI **Related Information**. In the event of any disparity between this policy and the Town's Code of Ordinances and/or applicable local, state, or federal laws, the Town's Ordinance and/or applicable laws shall prevail.



FREQUENTLY ASKED QUESTIONS OVERTIME POLICY FOR NON-EXEMPT EMPLOYEES

1. I am a non-exempt, full time employee who works 37.5 hours per week. Why don't I get time and a half if I work more than 37.5 hours?

The Town follows the Fair Labor Standards Act, which is the law. It provides that non-exempt employees are entitled to overtime pay once they exceed the maximum allowable hours in their pay cycle. For employees who are covered under the 7 day pay period, that threshold is 40 hours, not 37.5. You get paid for the extra hours up to 40 at straight time and at 1.5 times regular pay for hours over 40. Law enforcement and Fire personnel have a 28 day cycle, so overtime pertains to hours worked over the maximum within the 28 day cycle. For Fire personnel it's 212 hours; for law enforcement it is 171 hours.

2. I would prefer compensatory time instead of pay, but my department won't offer it to me. Why not?

The Town policy is that non-exempt employees are paid for overtime. The only exception is for public safety personnel.

3. I am a non-exempt employee that has compensatory time. I wanted to use it and my boss said no. Isn't that illegal? I am supposed to be allowed to use compensatory time whenever I request it.

[The regulations state](#) that a public agency must allow non-exempt employees to use their accrued compensatory time "within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the public agency." *Electronic Code of Federal Regulations* <http://www.ecfr.gov>

Any employee who is having difficulty using compensatory time should contact HRD for assistance.

4. I worked four 10 hour days during the week of New Year's and was off with pay for the New Year's Day holiday. Why didn't I get time and a half for the hours I had over 40, since my paycheck shows I worked 48 hours that week.

Your paycheck does not show that you WORKED 48 hours; it shows that you were PAID for 48 hours. You only performed actual work for 40 hours. Overtime pay only pertains to hours ACTUALLY WORKED.

5. I only worked 80 hours in a biweekly pay period, but for some reason I got overtime pay. Why?

In your case, overtime is paid for hours worked over the maximum in a 7 day period. Even though you show that you worked 80 hours total, you must have worked more than 40 in one of the weeks of the biweekly pay period.

6. I missed some hours one week and wanted to make them up the next week, but my supervisor said no because I would go into overtime. I am willing to forgo the overtime pay in order to make up the hours. Can I do that?

No, that is against the law. Your supervisor can refuse to let you extra work hours that will put you into overtime status, or can modify your regular schedule to keep you from working overtime.

7. I am a firefighter. Why don't I get overtime when I work extra shifts in a week?

Overtime doesn't apply to you until you have worked more than 212 hours in a 28 day period, according to the law. For your law enforcement colleagues, it is 171 hours in a 28 day period. Although you might work a lot in any given week, it's how much you worked during the entire 28 day cycle that determines whether you get overtime.

8. I worked overtime, but my supervisor said that since I didn't get it approved in advance, I won't get paid for it. Is that allowed?

Absolutely not. You must be paid for all the hours you worked. However, working overtime without authorization can be considered a performance issue and you might be subject to some type of disciplinary action. Get overtime approved in advance wherever possible. If you have to work overtime due to some sort of unanticipated issue—perhaps a customer who shows up right at closing time and needs assistance—be sure to email your supervisor as soon as possible and let them know what happened and why you had to stay late.

9. I am leaving the Town's employ and have 10 hours of compensatory time that I can't use before I leave. What happens to it?

If you are a non-exempt employee, then you will be paid for it when you leave.