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4.400 Hours of Work and Leave (Human Resources)

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February 2012

4.405 Overtime

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ANTIOCH UNIVERSITY

Type of Policy <input checked="" type="checkbox"/> University <input type="checkbox"/> <i>Campus</i> <input type="checkbox"/> <i>Department/Unit</i> <input type="checkbox"/> Interim		Overtime Policy 4.405	
Human Resource Policies		Effective date: February 9, 2012	
Policy History:	Approved by:	Resolution #	Date:
Approved	Chancellor	N/A	February 9, 2012
Revised			
Responsible Office:	Responsible Administrator:	Contact information:	Applies to:
Office of Human Resources	Director of University Human Resources	937-769-1375	All Employees except Exempt Employees and Employees in a Recognized Bargaining Unit.

I. Introduction and Purpose

Antioch University (“AU” or the “university”) adheres to the requirements of the Fair Labor Standards Act (FLSA) of 1938 (as amended) and state and local overtime laws in calculating and paying overtime compensation to employees. The purpose of this policy is to establish guidelines to comply with all federal and state regulations regarding overtime.

II. “Hours Worked” Defined

The concept of “hours worked” is central in complying with FLSA and other applicable federal and state regulations. According to the law, an employee must be compensated for hours “suffered or permitted to work” including “all time spent in physical or mental exertion (whether burdensome or not) controlled or required by the employer and pursued necessarily and primarily for the benefit of the employer or its business.” “Hours worked” means hours actually worked and does not include compensated time not worked such as vacation or holiday hours. Employees may not agree, even voluntarily, to waive their rights to the FLSA’s protection and overtime payment. For more detail concerning what activities may constitute “hours worked”; see Hours of Work and Attendance Policy # 4.401.

III. Policy

A. Exempt Employees (Salaried)

“Exempt” employees are by definition exempt from the overtime pay requirements of the Fair Labor Standards Act. As such they do not receive overtime pay for hours worked beyond 40 hours in a work week. See Employment Classifications for Non-Faculty Employees, Policy # 4.201.

B. Non-Exempt Employees (Hourly)

1. Non-exempt employees (except those in California who should see item 2 and 3 of this section) must be compensated at a rate of one and one-half times their regular hourly rate of pay for all hours actually worked in excess of 40 hours in a given work week.
2. **In California only, due to state law**, non-exempt employees are paid time and one-half their regular rate of pay for:
 - a) All hours worked beyond 8 in a workday;
 - b) All hours worked beyond 40 in a workweek; and
 - c) The first 8 hours worked on a Sunday where the employee has worked on each of the prior six days.
3. **In California only, due to state law**, non-exempt employees are paid double their regular rate of pay for:
 - a) All hours worked beyond 12 in a single workday; and
 - b) The hours worked beyond 8 on Sunday where the employee has worked on each of the prior six days.
4. The workweek is deemed to begin at 12:00 a.m. Monday and conclude at 11:59 p.m. on the following Sunday.
5. **Approval Required to Work Overtime.** Non-exempt employees **may not** work in excess of 40 hours per week (and in California, 8 hours in the same workday) without prior approval from their immediate supervisor.

6. **Compensatory Time-off Prohibited.** “Comp-time” typically refers to time-off in a later pay period to compensate for overtime worked in an earlier pay period. While this is lawful in most government jobs, it is prohibited by the FLSA for private sector employment. Therefore, employees who incur overtime hours in a pay period may not be provided “comp time” in lieu of overtime pay. Such employees must be paid for the overtime hours worked and must be paid in the regular pay cycle. For example, an Ohio employee who works 9 hours on Friday and a total of 41 hours for the week must be paid 41.5 hours of pay for that workweek. This cannot be avoided by allowing the employee to take an hour off on the following Monday.

7. **Offsetting of work within the work week or pay period.** An offset differs from “comp time” because it occurs within the same work week or pay period thereby eliminating the legal obligation to pay overtime pay at all. For example, an employee who is required to work beyond his normal schedule on one day may be asked to adjust his/her work schedule on subsequent days of the same work week to avoid the necessity of paying overtime pay or wages in excess of the normal weekly salary. For example, an Ohio employee who works 9 hours on Monday may be asked to work 7 hours on Tuesday to maintain a 40 hour workweek with no overtime pay liability.

a. **Exception for California.** California, unlike other states in which the university operates, requires that employees be paid overtime pay premiums for any hours worked in excess of 8 in a day. Using the above example, a California employee who works 9 hours on Monday, may not be asked to work 7 hours on Tuesday to avoid the Monday overtime pay liability. In California, one cannot avoid the overtime pay liability on Monday, by offsetting the work on an hour-for-hour basis during other days of the same work week. However, if the employee worked only 6.5 hour on Tuesday, his overtime pay liability for Monday would be completely offset and his wages for the week would be equal to his normal weekly wages.

b. **Make-up Time.** California does however recognize one exception for “make up time” to make up time lost due to personal obligations of the employee. If a non-exempt employee misses time from work due to personal obligations, the employee may request, in writing, that he or she be permitted to make up that lost time by working extra hours another day during the same workweek in which the time is missed. If the university approves that request, the employer will not be required to pay daily overtime for the make-up hours, provided that the hours worked in a single work day do not exceed 11. The make-up hours may be worked either before or after the missed time but must be worked in the same workweek as the missed time.

IV. General Guidelines

A. Assigning Overtime

University supervisors should not permit overtime work unless it is absolutely necessary. In keeping with this policy, supervisors must do the following:

1. Plan and schedule work so staff can perform it within regularly scheduled hours;
2. Strive to give employees ample advance notice of overtime assignments; and
3. Authorize all overtime before it is actually worked.

B. Mandatory Overtime

A supervisor may require employees to work overtime in rare occasions to serve university critical needs with or without advance notice. In either case, employees are expected to work overtime as directed. Supervisors will give employee as much notice as practical so employees can make arrangements as necessary.

C. Record Keeping

1. Accurate record keeping is imperative. The FLSA's regulation toward record keeping is strict and regularly enforced. Failing to record actual hours worked is a serious violation of university policy.
2. Employees are responsible for recording all hours worked on a daily and weekly basis. Supervisors who permit or encourage employees to record anything other than actual hours worked are in violation of university policy and state and federal law and are subject to discipline. Employees should report any such activity to the university's **Compliance Hotline via telephone at 866-606-4026.**
3. Employees are responsible for recording their actual hours worked and any leave hours used on the university-provided timekeeping forms. Supervisors must approve each person's time record before submitting it to Payroll.

Policy Cross References

Hours of Work and Attendance	Policy # 4.401
Employment Classifications Non-Faculty	Policy # 4.201
Corrective Action and Discipline	Policy # 4.617