

OVERTIME POLICY

PURPOSE

The purpose of this policy is to:

- Provide managers with guidance related to the administration of overtime.
- Ensure compliance with the Fair Labor Standards Act (FLSA) and the State of Texas Appropriations Act.

POLICY STATEMENT

It is the policy of The University of Texas MD Anderson Cancer Center (MD Anderson) to comply with all provisions in the FLSA.

SCOPE

Compliance with this policy is the responsibility of all faculty, trainees/students, and other members of MD Anderson's workforce.

TARGET AUDIENCE

The target audience for this policy includes, but is not limited to, all faculty, trainees/students, and other members of MD Anderson's workforce, including regular full-time and part-time classified employees (regardless of source of funding) who occupy positions determined to be eligible for **overtime**.

DEFINITIONS

Exempt Employees: A regular or temporary employee who is not covered by the FLSA. To determine if an employee is covered by the FLSA, an employer uses an exemption test (developed by the Department of Labor) that considers factors such as position duties, salary level, and payment method. While Exempt Employees are generally not eligible for overtime, MD Anderson may, in exceptional circumstances, pay additional compensation for exempt (s, t) employees (see [Employee Workweek and Classification Policy \(UTMDACC Institutional Policy # ADM0250\)](#)).

- **Exempt (e):** Employees identified as exempt (e) in the Classified Employee Pay Plan are paid a salary to accomplish job responsibilities assigned to their positions regardless of the number of Hours Worked.
- **Exempt (s or t):** Employees identified as exempt (s or t) in the Classified Employee Pay Plan are paid additional compensation for Hours Worked beyond their usual full-time

schedule based on market practices and MD Anderson business need. Refer to the [Compensatory Time Policy \(UTMDACC Institutional Policy # ADM0246\)](#).

Fair Labor Standards Act (FLSA): The Fair Labor Standards Act (FLSA) of 1938 is a federal law that requires employers to pay overtime to employees, covered by the law, for Hours Worked over 40 hours in a designated Workweek. Employees who are covered by the law are considered Non-Exempt, while employees who are not covered by the law are considered Exempt.

Hours Not Worked: Hours not actually worked, with or without pay.

Hours Worked: Hours actually worked during a Workweek. This includes all time an employee spends *on duty* in the course and scope of his/her job, whether on MD Anderson's premises or at another prescribed place of work. Also included is any time the employee is permitted to work in addition to his/her regular schedule.

Non-Exempt (n) Employees: A regular or temporary employee who is covered by the Fair Labor Standards Act (FLSA). Non-Exempt (n) Employees must be paid overtime for Hours Worked over 40 hours in a designated Workweek. Refer to the [Employee Workweek and Classification Policy \(UTMDACC Institutional Policy # ADM0250\)](#).

Overtime Hours: Hours Worked in excess of 40 hours in a Workweek.

Workweek: Begins at 12:00:01 a.m. Sunday morning and ends at 11:59:59 p.m. Saturday night.

PROCEDURE

1.0 Eligibility Determination

- 1.1 The Human Resources (HR) Compensation Department is responsible for determining the FLSA status of all positions.
- 1.2 Each manager has responsibility for:
 - A. Reviewing actual duties and responsibilities of positions for FLSA status.
 - B. Referring positions with questionable FLSA status to HR Compensation for review.

2.0 Prior Approval

A non-exempt employee may work overtime only at the request and prior approval of the employee's manager or supervisor. An employee will be paid for all Hours Worked, but is subject to disciplinary action if they work overtime without prior authorization. Refer to the [Attendance Policy \(UTMDACC Institutional Policy # ADM0289\)](#).

3.0 Scheduling

- 3.1 Each manager has the responsibility for scheduling overtime that meets the operational needs of the department.

- 3.2 Employees are expected to work overtime when requested by their manager or supervisor. Managers will make every effort to assign such overtime on a volunteer basis. However, when no volunteers are available, employees will be scheduled for overtime, as needed.

Refusal to work overtime could be considered as failure to report to work as scheduled and may result in disciplinary action, up to and including termination. Refer to the [Disciplinary Action Policy \(UTMDACC Institutional Policy # ADM0256\)](#).

- 3.3 Nursing employees:

For overtime scheduling specific to nurses, please refer to the [Nursing Overtime Policy \(UTMDACC Institutional Policy # CLN1062\)](#).

4.0 Tracking

- 4.1 Managers have the responsibility for monitoring Overtime Hours Worked by employees reporting to him/her.
- 4.2 Managers will follow appropriate payroll procedures for documenting Overtime Hours.

5.0 Calculation of Pay

- 5.1 Overtime Hours are calculated only on the basis of hours actually worked.
- 5.2 Hours paid but Hours Not Worked, such as holidays, Paid Time Off (PTO), Extended Illness Bank (EIB) leave, Reduced Salary Paid Leave (RPL), and Family and Medical Leave (e.g., funeral leave, jury duty, recognition leave, inclement weather, military leave) are not considered as time worked when computing overtime.
- 5.3 Due to the plan design of the Anderson Award program, the payout is subject to overtime for the period which spans the fiscal year. Contingent upon reaching established goals, Anderson Award is paid after the fiscal year ends. Nonexempt overtime paid during the previous fiscal year will be used when calculating the Anderson Award amount due. (See [Sample Calculation of Overtime Pay for Non-Exempt Employees](#).)
- 5.4 Due to the design of the merit program, if a merit is awarded in cash, that amount must be included in non-exempt overtime and apportioned back over the merit award period (i.e., the previous 12 months). This means that any overtime paid during the previous 12 months will be added to the cash merit payment. (See [Sample Calculation of Overtime Pay for Non-Exempt Employees](#).)

6.0 Non-Exempt Employees

Non-Exempt Employees are eligible for overtime and are paid in the following manner (see [Sample Calculation of Overtime Pay for Non-Exempt Employees](#)):

- 6.1 Straight time for all Hours Worked up to and including 40 hours in a Workweek;
- 6.2 Time and one-half for all Hours Worked in excess of 40 hours in a Workweek; and
- 6.3 For all Hours Worked, but are subject to disciplinary action if they repeatedly work overtime without prior authorization.

7.0 Exempt Employees

- 7.1 Generally, Exempt Employees are NOT eligible for overtime and are expected to work hours scheduled plus any additional hours required to fulfill their responsibilities in a professional manner.
- 7.2 In exceptional circumstances, HR Compensation may approve certain Exempt positions for recognition of overtime. This may result in the payment of overtime in the following manner:
 - A. As straight time.
 - B. As time and one-half.
 - C. As the accumulation of compensatory time. Refer to the [Compensatory Time Policy \(UTMDACC Institutional Policy # ADM0246\)](#).
- 7.3 Exempt Employees on the time and attendance system may utilize an alternate work period. Eligible employees will receive overtime recognition for Hours Worked in excess of 80 hours in a 14-day period.

8.0 Exemption Status and Changes in Time Schedule

Exempt Employees who change their work schedule or reduce their standard Hours Worked may cause their exemption status to change to Non-Exempt if their weekly salary no longer meets the minimum salary requirements for Exempt Employees, as defined by the Fair Labor Standards Act.

9.0 Improper Pay Deductions

MD Anderson will not make salary deductions that are prohibited under the FLSA. Employees with specific paycheck questions should speak with their manager or the Payroll Department for clarification. If, after speaking with his/her manager or Payroll, an employee still believes an improper pay deduction was made, he/she may follow MD Anderson's [Grievance Policy \(UTMDACC Institutional Policy # ADM0266\)](#) to address the improper pay deduction.

ATTACHMENTS / LINKS

[Sample Calculation of Overtime Pay for Non-Exempt Employees \(Attachment # ATT0572\).](#)

RELATED POLICIES

[Attendance Policy \(UTMDACC Institutional Policy # ADM0289\).](#)

[Compensatory Time Policy \(UTMDACC Institutional Policy # ADM0246\).](#)

[Disciplinary Action Policy \(UTMDACC Institutional Policy # ADM0256\).](#)

[Employee Workweek and Classification Policy \(UTMDACC Institutional Policy # ADM0250\).](#)

[Grievance Policy \(UTMDACC Institutional Policy # ADM0266\).](#)

[Nursing Overtime Policy \(UTMDACC Institutional Policy # CLN1062\).](#)

JOINT COMMISSION STANDARDS / NATIONAL PATIENT SAFETY GOALS

None.

OTHER RELATED ACCREDITATION / REGULATORY STANDARDS

None.

REFERENCES

None.

POLICY APPROVAL

Approved With Revisions Date: 02/09/2016

Approved Without Revisions Date:

Implementation Date: 02/09/2016

Version: 33.0

RESPONSIBLE DEPARTMENT(S)

Human Resources