2016 FLSA Supervisor Webinar 2: Job Aid

Note: Information discussed below applies to employees who are not covered by a collective bargaining agreement or for whom the agreement contains no provision regarding this subject.

Time Worked:

- **Hours Worked**: Defined by the Department of Labor as “all time in which the employer requires, suffers, or permits the employee to be on duty at the prescribed workplace or on the employers premises”.
- The FLSA mandates that an employer define the beginning and ending of a work week. The work week at the university begins at 12:00am Sunday and ends at 11:59pm Saturday.
- **Master Work Schedules**:
  - Supervisors should work with their transitioning employees to identify a Master Work Schedule on the payroll website that will best fit the needs of the employee, the business unit, and the university.
  - A Master Work Schedule must be identified for all transitioning employees and submitted to Compensation no later than 9/16/16.
  - Many work schedules have a built in break: In other words the employee will not have to clock out/in for meal breaks.
  - If your employee is temporarily working an odd schedule, please place them on a temporary flex schedule. Keep in mind – employees on a flex schedule must clock out/in for meal breaks.
  - The Master Work Schedule list can be found here: [http://www.uc.edu/content/dam/uc/af/controller/payroll/docs/HourlyMasterWorkScheduleList.pdf](http://www.uc.edu/content/dam/uc/af/controller/payroll/docs/HourlyMasterWorkScheduleList.pdf)

Overtime Considerations:

- Overtime is the payment to non-exempt employees who work more than 40 hours in a work week as defined by the Department of Labor. Overtime is discussed in UCHR Policy 14.03.
  - Overtime is paid at One and One Half times the non-exempt employee’s regular rate of pay.
  - Overtime is the default payment method for hours worked in excess of 40 each week.
- Payment of Overtime is mandatory:
  - While all overtime hours worked needs supervisor approval, any hours worked outside of the normal 40 hours must be compensated regardless if the overtime was approved or not.
- Overtime cannot be averaged over a two week period to avoid payment – each week stands alone.
- Employees with more than one university appointment will be classified according to their primary position. If the employee’s primary position classification is non-exempt, then all hours worked in excess of 40 per week from the combination of the two appointments must be paid overtime at one and one half times the employees rate of pay.

Compensatory Time:

- Employees may choose Compensatory Time (Comp Time) in lieu of overtime. This gives the employee the ability to take time off work as compensation for hours worked in excess of 40 during a work week rather than be paid overtime.
- Comp time is recorded at one and one half times the number of hours worked in excess of 40 in active pay status.
- Employees can accrue up to a maximum of 240 hours of comp time (some union employees have different maximums)
- Comp time must be approved in advance by the employee’s supervisor by submitting, in writing, a comp time request. This request must be submitted before bi-weekly payroll is run to avoid the default payment of overtime.
- Comp time cannot be used until it appears on the employee’s earning statement.

Meal Time:

- Designated meal times for each non-exempt employee are determined by the Master Schedule selected.
- If a work schedule is not selected by the due date of 9/16/16, the transitioning employee will default to work schedule rule FLEX08 – and will be required to clock out/in for meal breaks and will not have a 5 minute grace period like a defined master work schedule.
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Meal Time (continued):

• Working meal periods count as hours worked:
  − If an employee chooses to take their meal period at their desk and continues to answer calls, work on projects, or check email, this is considered work time and must be paid.
  − Meal periods are not hours worked when an employee is completely relieved of duty.

Lectures, Meetings, Training and Academic Classes:

• Attendance at a lecture, meeting or training is work time if:
  − It takes place during the regular work day, OR
  − Is required by the employer, OR
  − Continuance of employment would be adversely affected by non-attendance, OR
  − Disciplinary action will be taken against the employee for non-attendance.

• Attendance is not work time if ALL the following four criteria are met:
  − Attendance is outside of the employee’s regular work hours, AND
  − Attendance is voluntary, AND
  − The course, lecture, or meeting is not directly related to the employee’s job, AND
  − The employee does not perform any productive work during such attendance.

• Academic Classes:
  − Non-exempt employees are to clock out/in for courses scheduled during the day.
  − Attendance of academic courses requires approval from a manager or supervisor.
  − Supervisors are encouraged to use flexible work schedules when possible.
  − Non-exempt employees can use vacation, unpaid time, and/or comp time to missed work hours.

• See UCHR Policy 21.05 for more details.

Work from Home:

• Work from home (including but not limited to: checking email, taking calls, working on projects, helping customers) should not be allowed unless there is prior, written, authorization from the employee’s manager or supervisor.

• Work performed while away from the normal work premises or job site is still considered work time and must be counted as hours worked.

• Non-exempt employees should NOT perform any “off the clock work.” This means work performed but not reported.
  − Any non-exempt employee who fails to report, or inaccurately reports, any hours worked will be subject to disciplinary action.

On Call Pay & Callback Pay:

• On Call Pay is required if the employee is required to be available for work outside of their normal work schedule. See the list of rules in requesting on call pay for your employee in UCHR Policy 14.04

• Callback Pay is required if the employee is required to return to the workplace, outside their normal work schedule, necessitating additional travel to and from work.

• If called back into work, an employee will receive a minimum of four hours callback pay at the regular rate or the appropriate overtime rate for actual hours worked, whichever is greater.

• See UCHR Policy 14.11 for more information.

Travel Time:

• Travel from home to work is not considered work time.

• Time spent in travel as part of an employee’s principal activity, such as travel from job site to job site during the workday, must be counted as hours worked.

• Travel outside normal working hours is not paid.

• Any work which an employee is required to perform while traveling must be counted as hours worked.
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Miscellaneous Pay Practices:

- **Shift Differential:** [UCHR Policy 14.14](#)
  - An employee working 6pm to 11pm (2nd shift) will have shift differential at .35 cents per hour.
  - An employee working 11pm-6am (3rd shift) will have shift differential at .45 cents per hour.
  - An employee working a flex schedule for his or her own convenience is not eligible to receive differential pay.
    In this case, payroll should be notified so shift differential is not paid.

- **Holiday Pay:**
  - A non-exempt employee who is required to work on a university holiday is paid at one and one half times the regular base rate of pay or may elect compensatory time off at time and one half.

- **Winter Season Days:** [UCHR Policy 21.23](#)
  - Winter Season Days refers to the week between the Christmas and New Years Day holiday during which time the university is closed.
  - During this time all non-essential employees will not be required to work.
  - All non-essential employees will be paid at their normal hourly rate for this time and will not have to request time off or use vacation time to cover this period.
  - Employees designated as essential will be required to report to work and will receive:
    - Their regular rate of pay for all hours worked, and
    - Seasonal time on an hour-for-hour basis for all hours worked during the winter season.
    - Seasonal time may not be used until after the Winter Season Days period has ended.

Time Keeping Reminders:

- An employee may not clock in until the time he/she is authorized to work by their regular schedule or authorized overtime.
- An employee may not begin work until they have clocked in, nor continue to work after clocking out.
- Employees are required to report promptly to their manager or supervisor any differences between time actually spent working and the time reported as worked in the timekeeping system.
- Employees, including student employees, must clock in/out using approved systems.
- Please visit [https://www.uc.edu/ucflex/trainingopp](https://www.uc.edu/ucflex/trainingopp) for more details.

Important Reminders:

- **Time worked = Time Paid**
- Misclassification of employees has lead to costly lawsuits in many top organizations like UPS and Starbucks.
- Misclassification, not paying overtime for approved or unapproved overtime hours, or requiring the employee to work without pay to avoid overtime can lead to personal liability on the part of the supervisor/manager/business unit as well as the university as a whole.

Important Dates:

- **September 2:** Compensation will send out the final list of employees transitioning from exempt to non-exempt.
- **September 9:** Master Work Schedules must to be submitted to your VP Designee.
- **September 30:** All supervisors must have had a conversation with transitioning employees, signed/dated discussion planner checklist, and returned to HR representative to upload to OnBase.
- **October 1:** UC Implementation date for FLSA regulations.