Overtime

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<td>Responsible Office: HR/Payroll</td>
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Scope
This policy applies to all employees who are subject to New York State and federal overtime requirements. Generally, these are staff employees and are on the bi-weekly pay cycle.

Definitions
FLSA: The Fair Labor Standards Act of 1938, as amended, is a Federal statute of general application which establishes minimum wage, overtime pay, child labor, and equal pay requirements for employers. Covered employers are also required to comply with specified recordkeeping requirements. The law authorizes the Department of Labor, Wage and Hour Division, to investigate for compliance and, in the event of violations, to supervise the payment of unpaid wages or unpaid overtime compensation owing to any employee. The law also provides for enforcement in the courts.

Non-exempt employees: These are employees who are covered by the provisions of the FLSA. Non-exempt employees are eligible for overtime pay at the rate of one and one-half times their regular hourly rate of pay for any hours worked in excess of 40 in a workweek.

Exempt employees: Section 13(a)(1) of the FLSA exempts executive, administrative, professional, and outside sales employees from the minimum wage and overtime requirements of the FLSA, provided they meet certain tests regarding job duties and responsibilities and are compensated “on a salary basis” at not less than stated amounts. Subject to certain exemptions set forth in the regulations, in order to be considered “salaried,” employees must generally receive their full salary for any workweek in which they perform any work without regard to the number of days or hours worked.

The workweek: The University workweek commences at 12:01 a.m. Sunday and ends at midnight Saturday. Normal office hours are 8:30 a.m. to 4:30 p.m. Monday through Thursday, with one hour for lunch; and 8:30 a.m. to 3:00 p.m. on Friday with a half-hour for lunch. Some departments and employee classifications may have different office hours and, as such, normal office hours do not apply. Normal work hours range from 35 to 40 hours per week, depending on the employee classification. For more information, see policy #802, The Workweek, and policy #114, Employment Classifications.

Policy
Non-exempt employees must receive overtime pay for hours worked in excess of 40 in a workweek at a rate of one and one-half their regular rate of pay. The hours worked between 35 and 40 in a workweek are not paid as overtime; they are considered straight-time hours. The FLSA imposes no limit on the number of hours employees who are 16 years of age and older may work in any workweek.

Overtime is paid for hours worked in excess of 40 in a workweek based on actual time worked. Days in which no work is performed, such as holidays, vacation, sick or personal
time, jury duty and the like, are not counted toward the calculation of overtime. In addition, expenses incurred by an employee (e.g.: travel or business expenses) and special compensation (e.g.: discretionary bonuses or gifts) are not used in the calculation of an employee’s “regular rate of pay.”

**Compensatory Time-off for Non-Exempt Employees**

Full-time non-exempt employees (generally, staff employees) who work between 35 and 40 hours in one week may be compensated with straight time hourly pay or compensatory time off for hours worked up to and including 40 hours. If compensatory time-off is elected, it must be taken in the pay period in which it was accumulated. Compensatory time-off may not be carried over from one pay period to the next. For example, if an employee with a normal 35-hour workweek works 38 hours the first week of the pay period, he or she may arrange with the supervisor to work 32 hours the second week. In this example, the employee takes three (3) hours as compensatory time in the second week.

All hours worked over 40 in a workweek must be paid at one and one-half times the employee’s hourly rate. An employee who works over 40 hours in a workweek may not elect compensatory time-off and must be paid for all hours worked in that workweek in addition to the overtime premium for hours over 40.

Any questions regarding the use of this policy should be directed to the Payroll Office in Human Resources.