



Institutional Handbook of Operating Procedures
Policy 03.04.08

Section: Human Resources Policies	Responsible Vice President: Vice President, Human Resources and CHRO
Subject: Employee Relations	Responsible Entity: Human Resources

I. Title
Compensation Practices for Non-Exempt Employees

II. Policy
The University of Texas Medical Branch at Galveston’s (“UTMB”) compensation practices are designed to accurately record and pay non-exempt employees for all time worked and to be in compliance with all of The University of Texas System’s Rules and Regulations and state and federal laws, including the Fair Labor Standards Act of 1938 (“FLSA”). All hours worked will be accurately recorded and compensated as required. Employees are accountable for recording time accurately and approving time recorded on their time card at the end of the pay period. Managers are accountable for approving time at the end of the pay period for all employees reporting to them and ensuring that all procedures are followed.

- III. Hours Worked**
- A. All non-exempt employees are required to clock in when they begin work and clock out when they leave work. Clocking in and clocking out must be completed in the electronic time capture system (KRONOS) using whatever method has been designated for each employee (time clock, telephone, or personal computer). If an employee is unable to clock in or clock out for any reason, a time adjustment form must be completed as soon as possible by the employee that accurately records the correct time for the missed clock in/out.
 - B. All non-exempt employees are required to clock out when they begin their meal break and clock in when the meal break is completed. No automatic meal deductions are allowed for any non-exempt employee. If no clock out is noted on the time card, the employee will be paid for that time. If an employee does any work during the meal break, he or she must be paid for that time. This includes, but is not limited to, activities such as answering work-related telephone calls, answering questions, and reading/answering work-related emails.
 - C. All non-exempt employees must be paid for all time recorded on their time cards. This includes, but is not limited to, overtime for any hours worked over 40 hours in one workweek.
 - D. Non-exempt employees may not perform work prior to clocking in or after clocking out at the end of the shift. This includes, but is not limited to, activities such as answering work-related telephone calls and emails and delivering items on the way to or from work. Any time spent working off the clock performing such activities is considered work time and must be paid. Employees must have prior approval from their manager before performing any work-related activities prior to clocking in or after clocking out at the end of the shift. Additionally, the employee must complete a time adjustment form as soon as possible that accurately records all hours worked.

IV. Overtime

- A. UTMB will pay non-exempt employees who are required or permitted to work more than 40 hours in a workweek additional compensation at the rate of one and one-half times their regular rate of pay for all time actually worked over 40 hours in a workweek. Overtime should be managed and granted under extenuating circumstances in which major project deadlines, patient care, contracts or University funding would be jeopardized.
- B. A non-exempt employee must have prior approval from his or her Department Director or designee before working hours that result in overtime earned. If an employee works overtime without prior approval, the employee will be paid for all hours worked. However, the employee may be subject to disciplinary action, up to and including termination, for failing to seek prior approval.
- C. Permitting overtime to be worked is the same as ordering or authorizing it. If a supervisor is aware that a non-exempt employee works through a meal break, starts work early or stays late, and works more than 40 hours in a workweek, UTMB is responsible for compensating the employee for that overtime. A supervisor who knowingly and willingly allows an employee to work more than 40 hours in a work week, but not receive additional compensation for all hours worked as set forth in this policy and under the FLSA, may be subject to disciplinary action, up to and including termination.
- D. UTMB follows the FLSA to determine if an employee is classified as non-exempt and eligible for overtime compensation. UTMB will determine a job's FLSA status based on analysis of the duties performed, compensation level, and method of pay. Job title alone does not determine FLSA status.
- E. UTMB defines work cycles as repeated intervals of work time that are based on a 40-hour workweek period. Work cycles begin on Saturdays and conclude on Fridays, unless a department has received permission to use an alternative work cycle. Overtime pay will be calculated for all hours worked in excess of 40 hours in a workweek. Hours paid but not worked and leave without pay are not considered time worked for overtime purposes. Changes to work cycles must be approved by the appropriate administrative authority.

V. Shift Differential Pay

- A. An employee in a job that is eligible for shift differential pay must work a minimum of four hours into the eligible shift on an established evening and/or night shift to be eligible to receive shift differential pay for that shift. The employee will receive the appropriate shift rate for the hours worked in the shift(s). No minimum hours are required for weekend shift differential.
- B. An employee who works a shift 12 hours or greater in length is eligible for evening shift differential pay if a minimum of six hours worked in that shift are between 3 p.m. and 11 p.m.
- C. An employee who works a shift 12 hours or greater in length is eligible for night shift differential pay if a minimum of four hours worked in that shift are between 7 p.m. and 7 a.m.
- D. An employee who works a shift less than 12 hours is eligible for evening shift differential pay if a minimum of four hours worked in that shift are between 3 p.m. and 11 p.m.
- E. An employee who works a shift less than 12 hours is eligible for night shift differential pay if a minimum of four hours worked in that shift are between 11 p.m. and 7 a.m.

VI. General Training and Seminars Rules

Attendance at lectures, meetings, training programs and similar activities are viewed as working time and compensable unless *all* of the following criteria are met:

1. Attendance is outside of the employee's regular working hours;
2. Attendance is in fact voluntary;
3. The course, lecture, or meeting is not directly related to the employee's job; *and*
4. The employee does not perform any productive work during such attendance.

VII. Commute Time Rules

- A. Generally, an employee is not at work until he or she reaches the work site and begins working.
- B. Time spent by an employee in travel as part of his or her principal activity, such as travel from jobsite to jobsite during the workday, must be considered as hours worked and is compensable.

Example: An employee is asked to fill in at another facility after he or she completes his or her shift at the normal work site. It takes the employee 30 minutes to drive to the other facility. The travel time between the two facilities is considered hours worked and is compensable.

- C. If the employee is required to report to a meeting place where he or she is to pick up materials, equipment, or other employees, or to receive instructions before traveling to the work site, time is compensable once the employee reaches the meeting place.
- D. If the employee drives a state vehicle, to and from work, he or she does not have to be compensated for that commuting time as long as:
 1. Driving the vehicle between home and work is strictly voluntary and not a condition of employment;
 2. The vehicle is a type normally used for commuting;
 3. The employee incurs no costs for driving UTMB's vehicle or parking it at home; and
 4. The work sites are within normal commuting area of UTMB's place of business.

Exception: If there is a contract, custom or practice providing that an employee's regular daily travel time between home and the workplace is compensable, the time may be considered compensable.

VIII. Travel during the Workday – General Rule

- A. Travel as a part of UTMB's principal activity must be counted as hours worked. If the travel is for the benefit of UTMB, it is compensable.

Example: The employee travels from job site to job site during the workday.

- B. If the employee stops at the home office for his or her own convenience, the time traveling from the office to the site is not compensable.
- C. Time spent by the driver in picking up other passengers and transporting them to a specific location is work time and therefore compensable.
- D. Time spent by passengers traveling in a car outside the normal workday hours is not compensable.

IX. Out of Town Travel – Special One Day Assignment

- A. If the employee is assigned to work in another city for one day, and the travel is performed for UTMB's benefit and at its request, the travel time is compensable.
- B. However, in this special one-day assignment, travel time between the employee's home and the airport is home to work travel time and therefore not compensable, if outside normal work hours.

X. Overnight Travel

- A. Travel that keeps an employee away from home overnight is travel away from home.
- B. Travel away from home during an employee's regular workday hours is work time and compensable.
- C. The time is not only hours worked on regular workdays during normal working hours but also during corresponding hours on non-work days. If this travel occurs during normal work hours on non-work days (i.e. Saturday or Sunday for an employee who works Monday through Friday), the time is also compensable.
- D. Overnight travel that occurs outside of the employee's normal working hours is not compensable whether it is on a common carrier or as a passenger in a car. However, the driver of the vehicle must be compensated as driving is work time.

Example: The employee drives to the airport to attend a seminar and has two co-workers as passengers with him. If the trip is made before or after normal work hours, only the driver receives compensation as only the driver is working. If the trip is made during normal work hours, all three employees are compensated because travel during normal work time is compensable.

- E. Time spent at a hotel with freedom to use time for the employee's own purposes are not compensable.
- F. *Examples of a Non-Exempt Employee and Overnight Travel*
 - 1. When the travel falls during the employee's regular workday, the travel time is compensable.
 - 2. When the travel takes place outside the employee's normal workdays but within his or her work hours, he or she is required to be compensated for the travel time.
 - 3. When the travel takes place outside the employee's normal workdays, the employee is required to be compensated for the travel time if he or she is the driver to the airport or hotel.
 - Passenger employees are not required to be compensated outside his or her work hours.
 - 4. The employee is compensated for all conference-required events that involve training or a speaker.
 - The employee is not compensated for social events, meals without speakers or meals when work is not being performed.

XI. On-Call Pay

- A. To ensure adequate coverage, UTMB pays on-call compensation to exempt and non-exempt classified employees in specific departments and job titles that have been designated as authorized on-call positions. These employees must be available to respond from a remote location or by returning to the worksite within a defined period of time as predetermined by the department.
- B. While on-call, an employee is paid an hourly on-call rate based on the established institutional rate.
- C. As soon as an employee reports to work or begins work from a remote location, he/she will go “on the clock” at his/her regular rate of pay and on-call pay will be suspended until the employee is off the clock.
 - 1. Employees who work during a scheduled on-call period will be paid for at least two (2) hours of work, though the actual cumulative time worked during the on-call period may be less. The time worked will be recorded as two (2) hours of callback on the time record.
 - 2. If the actual time worked is greater than two (2) hours, the time worked will be recorded as regular time on the timesheet, and on-call pay will end.
 - 3. If after working, the employee is still within the on-call period, he/she will be paid the on-call rate for the duration of the on-call period.
- D. Applicable overtime or compensatory time guidelines apply if the weekly total number of hours worked exceeds 40 hours.

XII. Non-Compliance

- A. Employees and managers who fail to comply with any portion of this policy or who violate the FLSA are subject to disciplinary action, up to and including termination.
- B. The following actions are examples of misconduct that are subject to disciplinary action, up to and including termination:
 - 1. Employees who misrepresent their time and falsely report time worked;
 - 2. Employees who work “off the clock” after receiving instruction not to do so by their supervisor;
 - 3. Non-exempt employees who work hours resulting in overtime without seeking prior approval from their Department Director or designee;
 - 4. Supervisors who knowingly allow non-exempt employees to work “off the clock;”
 - 5. Supervisors or timekeepers who alter an employee’s timecard without the employee’s permission and/or a time adjustment form; and/or
 - 6. Non-exempt timekeepers who alter their own timecards.
- C. Employees and managers who knowingly and intentionally retaliate against an individual based on a complaint made under this policy may be subject to disciplinary action up to and including dismissal or separation from the UTMB.
- D.

XIII. Relevant Federal and State Law

[Fair Labor Standards Act](#), 29 U.S.C. 201

[Sec. 659.015. Texas Government Code - Overtime Compensation for Employees Subject to Fair Labor Standards Act](#)

[Texas Government Code, Chapter. 554](#), Protection for Reporting Violations of Law

XIV. Related UTMB Policies and Procedures

[IHOP 03.04.06 – Shift Differential](#)

[IHOP 03.04.04 – Pay for On – Call Classified Employees](#)

[IHOP 03.01.09 – Discipline, Dismissal and Appeals for Classified Employees](#)

[IHOP 04.01.02 - Employee Timecard Management](#)

[IHOP 04.01.04 - Time and Attendance Reporting](#)

XV. Dates Approved or Amended

<i>Originated: 4/21/2016</i>	
<i>Reviewed with Changes</i>	<i>Reviewed without Changes</i>
1/31/2019	
11/12/2019	

XVI. Contact Information

Human Resources – Employee Relations

(409) 772-8696