

	FGCU POLICY 3.029	Responsible Unit: Human Resources
	Overtime and Special Compensatory Leave	

A. POLICY STATEMENT

Florida Gulf Coast University provides payment of wages for Overtime worked in compliance of the Fair Labor Standards Act (FLSA), and further provides for the accrual and use of Special Compensatory Leave consistent with this Policy. The University shall comply with all legal and regulatory requirements associated with the accrual and use of Overtime and Special Compensatory leave and payment for Overtime. As a state institution of higher education, the University is a public agency for purposes of the Fair Labor Standards Act (FLSA) and may provide compensatory leave time in lieu of Overtime pay. Florida Gulf Coast University does not provide compensatory leave time in lieu of Overtime pay in accordance with this Policy.

B. REASON FOR POLICY

This Policy serves to outline the procedures used to document payment of Overtime, and the accrual and use of Special Compensatory Leave.

C. APPLICABILITY AND/OR ACCOUNTABILITY

This Policy applies to non-exempt employees not governed by a collective bargaining agreement.

D. DEFINITION OF TERMS

1. *Exempt Classification:* A class which, based on the duties and salary test of the FLSA, has been determined to be “exempt” from the FLSA minimum wage and Overtime requirements, and in which the employee is not eligible to receive Overtime pay or compensatory leave time.
2. *Non-Exempt Classification:* A class which, based on the duties and salary test of the FLSA is “not exempt” from the FLSA minimum wage and Overtime requirements, and in which the employee is eligible to receive Overtime pay or compensatory leave at a rate of one and a half (1 ½) times the hourly rate for Overtime hours worked.
3. *Overtime:* Hours of actual work performed by an employee in excess of forty (40) hours during the established workweek or in excess of the number of hours indicated in an extended period for law enforcement officers. The term "hours of actual work" excludes leave taken and holidays occurring during the workweek.

4. *Special Compensatory Leave*: Leave earned on an hour for hour basis by an employee occupying a support personnel non-exempt position under the following conditions:
 - a. When an FGCU observed holiday falls on the employee's regularly scheduled day off; or
 - b. When the employee is required to work an FGCU observed holiday; or
 - c. When the employee is required to work on the Saturday and/or Sunday between Christmas and New Year's Day; or
 - d. When the employee is required to perform essential duties, as outlined in their position description, during an emergency closure for the hours worked during the closure.
5. *Time and Attendance Application*: The third-party vendor application to track time and attendance.

E. PROCEDURES

1. The employee must secure approval from the supervisor prior to actually working Overtime. Overtime work, however, is considered compensable even if not authorized, when the supervisor permits the employee to continue the unauthorized Overtime work.
2. When assigning Overtime work, the supervisor should attempt to adjust the employee's workweek schedule whenever possible to avoid Overtime. Overtime is paid at time and one-half for each Overtime hour worked in the pay period earned.
3. Work related travel, exclusive of commuting, will be considered time worked in the following circumstances:
 - a. If required to report to a meeting place to receive instructions, perform other work, or to pick up or carry tools, travel time from the designated meeting place to the actual work site is part of the day's work and must be counted as hours worked;
 - b. If work-related travel (including for authorized training or work-related conference) cuts across the employee's work day, time spent in travel during the hours of the regular work day, excluding meal time;
 - c. If public transportation is offered or the employee can ride with others as part of a car pool, but requests permission to drive the employee's car, only actual time spent in travel during the regular work hours or time which would have been spent working if public transportation or as a passenger in car pool had been used, whichever is less;

- d. If required to drive on work-related travel, time spent driving regardless of whether the time driving occurs during the regular work day.
4. The employee must record all hours worked in the time and attendance application. Hours worked should be rounded to the nearest quarter hour. Time is electronically submitted by the employee and approved by the supervisor to signify that the submission document is true and accurate. Falsification of time may lead to the dismissal of those employees involved. Payroll cannot process the payment of wages until the approval is complete. If an employee is physically unavailable to submit time in the time and attendance application, the supervisor should submit and approve the time and send it to Payroll for processing according to the approved payroll schedule.
5. Employees are required to use their accrued Special Compensatory leave hours as soon as practicable. Special Compensatory Leave is to be used prior to annual leave. If an employee reports the use of leave in a category in which they do not have sufficient leave to cover the absence, any accumulated Special Compensatory Leave will be used by Payroll before taking action to dock the employee's pay for that pay period.
6. Procedure to Pay for Special Compensatory Leave Balances
 - a. An employing department head may approve payment to an employee for up to the total accrued hours of Special Compensatory Leave whenever the following occurs:
 - 1) An employee is moving from a position funded within one budget entity (i.e., auxiliaries) to a position in another budget entity (i.e. contracts and grants).
 - 2) An employee is in a position funded from a contract or grant source and the funding period will be expiring.
 - 3) An employee is changed from a non-exempt position to an exempt position, in which case all accrued Special Compensatory Leave must be paid or used before the position change occurs.
 - 4) Other extraordinary situations, as determined by the President or respective Vice President.
 - b. Whenever an employee moves from a position in one division to a position in another division, within the same budget entity, the new employing department head may request of the President or respective Vice President the approval to provide payment to an employee for any or all accrued Special Compensatory Leave. The original department from which the employee is moving is responsible for funding the cost of this payment.
 - c. Request for a payment to an employee for Special Compensatory Leave accrual under extraordinary circumstances shall be submitted in writing to the respective Vice

President for approval. Such requests must identify the basis for providing payment to the employee.

- d. The President or respective Vice President shall review the request to pay an employee for accrued Special Compensatory Leave and upon approval notify the department head and Payroll.
- e. The department head shall submit approved requests for payment of an employee's accrued Special Compensatory Leave as described above to Payroll to be processed through the next appropriate payroll cycle.

Related Information

FGCU Policy 3.003, Holiday Observances

Specific Authority

Fair Labor Standards Act (FLSA), 29.U.S.C. section 201, et. seq.

BOG Regulation 1.001, University Board of Trustees Powers and Duties

History of Policy

New 03/18/11; Amended 01/17/17; Format Changed 09/10/19; Amended 08/03/20

APPROVED:

*s/Michael V. Martin
Michael V. Martin, President

August 3, 2020
Date