Allegany College of Maryland

OVERTIME AND COMPENSATORY TIME

Revised Date (if applicable) 09-2024
Approved by Board of Trustees
Implementation Date 09/16/2024
Type of Policy – Compliance

BACKGROUND AND PURPOSE

The federal overtime provisions are contained in the Fair Labor Standards Act (FLSA). Each position at the College is designated as either non-exempt or exempt from the provisions of federal and state wage and hour laws (Personnel - 03.03.001 Employment Definitions). Non-exempt employees must receive overtime pay for hours worked in excess of 40 hours in a workweek at a rate of not less than time and one-half their regular rate of pay.

DEFINITIONS

Overtime
Any time worked in excess of 40 hours per workweek. In determining whether an employee has worked any overtime, only those hours actually worked will be considered. Paid leave does not count as hours worked for overtime purposes.

Straight time
A week in which a full-time non-exempt employee works beyond their normal workweek (35-hours per week) but not more than 40 total hours. This time is paid at the employee's regular rate of pay.

Compensatory time
In lieu of monetary compensation, full-time non-exempt employees can elect to receive compensatory time off for overtime hours in lieu of overtime pay. Compensatory time off for overtime hours will be calculated at one and one-half the employee's regular rate of pay.

Compensatory time off will be provided for full-time non-exempt employees who work between 35 to 40 hours per week at the straight time rate, which is an hour-for-hour rate.

Non-exempt employees are permitted to use compensatory time, just as they would use annual leave. Compensatory time must be used within a reasonable time after it is earned, subject to the operating needs of the College.

Workweek
Allegany College of Maryland's workweek for non-exempt staff is from 12:01 am Sunday until 12 pm midnight on Saturday (Personnel 03.04.002 – Hours of Work).

COMPENSATION

A. Overtime

A special provision authorizes public agencies, e.g. Allegany College of Maryland, to provide compensatory time off in lieu of monetary overtime compensation at a rate of not less than one

and one-half hours of compensatory time for each hour of overtime worked (over 40 hours actually worked in a workweek), the same calculation used for monetary overtime.

ACM has adopted this provision for full-time non-exempt employees and reserves the right to offer compensatory time off in lieu of monetary payment for overtime worked. The agreement to accept compensatory time off for overtime must meet the following conditions:

1. The employee knowingly and voluntarily agrees to accept compensatory time, as evidenced by executing a form agreement consistent with Exhibit A to this policy.

2. The employee is informed that the compensatory time earned may be preserved, used, or cashed out in a manner consistent with the provisions of this policy.

Part-time non-exempt employees who work more than 40-hours per week will be paid overtime at the rate of one and one-half their regular rate of pay for hours actually worked beyond 40 in a workweek. Part-time non-exempt employees are not eligible for compensatory time in lieu of monetary payment.

B. Straight Time

In a week in which a full-time non-exempt employee works beyond their normal workweek (35-hours per week) but not more than 40 total hours, compensatory time off will be granted to full-time non-exempt employees at a straight hour-for-hour rate.

C. Calculation – Compensatory Time

Full-time non-exempt employees at Allegany College of Maryland are assigned to work a 35-hour workweek. Compensatory time is accrued at the same rate of pay as regular wages for hours worked between 35-hours and 40-hours in a workweek. Overtime pay or compensatory time when an employee works more than 40 hours in a workweek is earned at the rate of 1.5 hours for each hour over 40 worked in a workweek.

Compensatory time does not count as “hours worked” in the week in which it is taken.

D. Separation of Employment

If an employee separates, promotes, demotes or transfers, unused compensatory time must be paid out. Additionally, if a non-exempt employee’s status changes to exempt, compensatory time must be used or paid out prior to the effective date of the status change.

Accrued compensatory time will be paid at the employee’s current rate of pay at the time of payout or at the average of the employee’s pay rates from the past three years, whichever is higher.

E. Accrued Compensatory Time

Compensatory time must be used within a reasonable time after it is earned, subject to the operating needs of the College. A maximum of 70 compensatory hours may be accrued by full-time non-exempt employees at any given time. All compensatory time in excess of this maximum will be paid as overtime wages, as described above.

The College may opt to pay out all or any portion of compensatory time due an employee at the College's discretion.

ACCOUNTABILITY

The approval of overtime is contingent upon an existing need, usually temporary, such as additional workload, special projects or events, or to cover the absence of another employee. Working additional hours for the purpose of receiving additional pay or accruing extra compensatory time off for future use (e.g. to avoid depleting leave reserves) is prohibited and creates an unnecessary fiscal obligation for departments.

To avoid placing an employee into an overtime situation, a supervisor can plan in advance to change the employee's work schedule.

Overtime must be authorized in advance by the responsible supervisor. Working overtime without authorization may lead to disciplinary action up to and including termination of employment.

ADMINISTRATION

The Human Resources Office is responsible for implementation, administration, and oversight of this policy. Questions can be directed to the Human Resources Office.

CHANGES

Substantive changes to this policy require approval by the Board of Trustees; editorial changes, title/position changes, and/or changes to its implementation procedures may be made as required by federal or state mandate and/or institutional need with timely notice to employees.