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PROCEDURE SUMMARY

Under the federal Fair Labor Standards Act (FLSA) non-exempt employees must be compensated for working more than 40 hours in a workweek with either time off or pay. Under Texas law, a non-exempt employee with a combination of hours worked, paid leave, compensatory time, and paid holidays totaling more than 40 hours in a workweek must also receive either time off or pay for the additional hours in accordance with System Regulation 31.01.09, *Overtime*. This procedure is required by System Regulation 31.01.09, *Overtime*.

PROCEDURES AND RESPONSIBILITIES

1.0 NON-EXEMPT EMPLOYEES

- 1.1 Authorization for overtime must be provided by the department/unit head or designated representative on the determination of need, workload, emergencies, or other demands which require work by employees with specific skills, training, or experience. Overtime work should be scheduled to provide fair and even distribution of overtime work among staff members whose job classifications are appropriate for the required work.
- 1.2 Where granting compensatory time off is impractical, employees will be paid for the overtime. This option is available in limited circumstances and only with the approval of the department/unit head or designated representative.
- 1.3 Overtime not authorized must also be counted as work time. However, non-exempt employees who work without authorization are subject to disciplinary action, up to and including termination.
- 1.4 The normal workweek (starting and ending day and time) cannot be changed to avoid overtime. A supervisor may adjust a nonexempt employee's work schedule in a workweek so the employee does not work overtime.
- 1.5 Overtime for non-exempt employees will be managed in accordance with System Regulation 31.01.09 *Overtime* and agency procedure 31.01.09.X0.01.

2.0 EXEMPT EMPLOYEES

- 2.1 Exempt employees are not eligible for overtime pay or compensatory time except due to certain limited conditions. Under extraordinary circumstances that necessitate work hours beyond those routinely required for the position, such employees may, at the discretion of the Director or designee, be granted compensatory time off in accordance with state law and System Regulation 31.01.09.
- 2.2 Exempt employees may be paid for compensatory time granted for work during a disaster or emergency if the Director or designee approves the payment and certifies that compensatory time off would be disruptive to the agency's normal business functions in accordance with System Regulation 31.01.09, *Overtime*. In the event Texas A&M AgriLife Extension Service (AL-EXT) is requested to activate and deploy for a state or federal emergency, the agency director or designee may activate various Texas A&M AgriLife Extension Service (AL-EXT) emergency response support teams located across the state.

The Extension Leadership Team (ELT) and Disaster Assessment and Recovery (DAR) program director will work collaboratively to engage appropriate Central Leadership Team (CLT) members in determining the agency response to each specific incident. Activation of any AgriLife Extension personnel will require approval by the employee's supervisor with such approval being coordinated by the DAR unit.

- 2.3 AL-EXT may be requested to respond to incidents working with other state and federal partners in and out of the state of Texas. There are three types of incidents:
 - 2.3.1 Mutual Aid - emergencies for which the State of Texas is financially responsible. Expenses for these incidents are usually paid from state resources.
 - 2.3.2 In-state Federal – emergencies within the state of Texas for which the Federal Government is financially responsible. A federally declared emergency in the State of Texas in which the Federal Emergency Management Agency (FEMA) provides financial assistance to the state. AL-EXT may work through the Texas Division of Emergency Management (TDEM) on a federally declared emergency. AL-EXT will seek reimbursement of expenses from FEMA through TDEM.
 - 2.3.3 Emergency Management Assistance Compact (EMAC) – emergencies in another state where that state has formally requested assistance from Texas. An agreement between AL-EXT and the applicable entity will be required for AL-EXT to assist the other state and apply for reimbursement of expenses. Coordination and reimbursement requests are submitted through TDEM.
- 2.4 Employees responding to an incident are eligible for compensatory time only when the agency has authorized activation. This includes both Texas and Out-of-State incidents. Overtime at the straight time rate (based on 2080 hours annually) may be paid in lieu of compensatory time at the discretion of the Director. Overtime for an incident will normally be handled as follows:
 - 2.4.1 For the purpose of this guideline, the regular business work week starts Monday and ends Friday. Normal work hours are eight hours a day.
 - 2.4.2 Any week with incident hours will be reported via the Incident Command System activity log (ICS 214) and through the Workday Time Module. Time collection and management will be handled by DAR through the DAR Timekeeping Portal.
 - 2.4.3 An employee who is required to work all or part of a holiday on emergency response will be allowed to take the holiday (or portion thereof) on another day, as agreed upon by the employee and supervisor.
- 2.5 County Extension Agents have split funding sources through both the agency and the county. A portion of a County Extension Agent's regular salary can be paid directly by the local county. However, during times of activation, overtime pay is paid 100% by the agency. For the purposes of agency reimbursement, the following methodology is followed for an agent's regular hourly rate of pay.
 - 2.5.1 Regular business work week pay rate - the agency's hourly rate includes salaries paid by the agency; only the agency portion.
 - 2.5.2 Overtime pay rate - hourly rate calculated includes both agency and county sources to get the total hourly rate.

Example:

 - C1. County Extension Agent's annual salary is \$75,000
 - C2. Funding sources at 70% agency and 30% county
 - C3. Regular business work week pay rate \$25.24/hour ($\$75,000 \times 70\% / 2080$)

C4. Overtime pay rate \$36.06/hour (\$75,000 / 2080)

- 2.6 Employees may be instructed by the Director or designee to take directed days off. Employees will be instructed as to whether or not that time is reported as part of the project.
- 2.7 Employees may be required on occasion to participate in emergency training tabletop or full-scale exercises. Compensatory time shall be granted for overtime hours worked.
- 2.8 The Incident Command System activity log (ICS 214) will be used to report all incident hours. Compensatory time for all employees is maintained in the Workday Time module. When activated, DAR will be responsible for tracking all incident hours through the DAR portal. District Office Managers will ensure Strike Team members input their applicable time in Workday.
- 2.9 Compensatory time will be managed in accordance with System Regulation 31.01.09 *Overtime*. Compensatory time may be requested by the employee in the Workday Time Off module. Employees shall use compensatory time before administrative or annual leave. Supervisors are responsible for monitoring leave balances and ensuring time is taken in a timely manner and large balances do not accumulate. All unused compensatory time expires 12 months after the end of the workweek in which the additional hours were worked.
- 2.10 An employee, or the employee's estate, may not be paid for unused compensatory time. A terminating or transferring employee may, however, remain on the payroll to expend compensatory time as long as it is prior to the 12 months after the end of the workweek in which the additional hours were worked.

3.0 FLSA COMPENSATORY TIME OFF

- 3.1 To ease the administration of overtime, supervisors should encourage employees to take FLSA overtime during the 12-month period following the end of the workweek in which the overtime was worked.
- 3.2 With the approval of the department/unit head, a supervisor may require an employee to take FLSA compensatory time before using vacation.

4.0 STATE OVERTIME FOR NON-EXEMPT EMPLOYEES

An employee may not be paid for unused state compensatory time upon termination of employment or transfer to a state agency outside the A&M System. A terminating or transferring employee may, however, remain on the payroll to expend this type of compensatory time.

RELATED STATUTES, POLICIES, OR REQUIREMENTS

[A&M System Regulation 31.01.09, Overtime](#)

CONTACT OFFICE

Questions concerning this procedure should be referred to AgriLife Human Resources at 979-845-2423.

REVISION HISTORY

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