

# COLLEGE OF CHARLESTON

## HOURS OF WORK AND OVERTIME POLICY

(Revised and Effective 04/25/07)

**THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.**

### HOURS OF WORK

#### **Exempt/Nonexempt Status Under The Fair Labor Standards Act (FLSA)**

Section 13(a)(1) of the FLSA provides an exemption from both minimum wage and overtime pay for employees employed as bona fide executive, administrative, and professional employees. Section 13(a)(1) and Section 13(a)(17) also exempt certain computer employees. To qualify for exemption, employees generally must meet certain tests regarding their job duties and be paid on a salary basis at not less than \$455 per week (\$23,660 per year). **Job titles do not determine exempt status.** In order for an exemption to apply, an employee's specific job duties and salary must meet all the requirements of the FLSA regulations. Determination will be made by the Office of Human Resources.

#### **Minimum Wage**

The College of Charleston has established an internal minimum wage of \$7.20 per hour for non-exempt employees (excluding student employees) and an equivalent rate of \$16,500 for exempt employees.

#### **Compensation**

Compensation of all employees is based on forty (40) hours per week or 2080 hours per year. Classified employees shall be paid according to the State pay bands and no employee shall be paid more or less than allowed by the appropriate pay band. Based upon departmental needs and approval, some positions may be designated as permanent  $\frac{3}{4}$  time (or at least 30 hours per week) and retain benefits. For these positions, salary, accruals of sick and annual leave, and State service time will be prorated accordingly.

#### **The Workweek**

The normal office hours of the College of Charleston shall be 8:30 a.m.–5:00 p.m., Monday through Friday. The minimum full-time workweek for the College shall be 37.5 hours, except in the cases noted below. However, employees shall not receive additional compensation for hours worked between 37.5 and 40.0 hours per workweek. Employees shall not receive compensatory time for hours worked between 37.5 and 40.0 hours per workweek.

For record keeping purposes, the workweek begins at 12:01 a.m. on Sunday and ends at 12:00 midnight on Saturday.

**Exception:** Public Safety Officers, Sergeants, and Corporals are normally scheduled to work twelve hours per day, alternating three days one week and four days the next week. If the employee works more than 84 hours in a two-week period, the employee shall be paid overtime on the hours that exceed 84 hours.

**Exception:** Physical Plant employees have a minimum full-time work week of 40 hours. The official core work hours of the Physical Plant are 7:00 a.m. to 3:30 p.m., Monday through Friday. Physical Plant employees have a 30 minute lunch break and two scheduled 15 minute breaks during the day due to the nature of the work that is performed.

### **Hours Worked**

Hours worked include all time that the employee is required to be at a prescribed workplace and all time during which the employee is permitted to work.

### **Regular Rate**

The regular rate of pay includes all remuneration for employment paid to an employee to include base pay and shift differentials.

### **Hourly Rate Employees**

The hourly rate is the “regular rate” for non-exempt or hourly employees. This rate is calculated by dividing the annual salary by 2080 hours. Hourly employees shall be compensated for all hours worked. Because only salaried employees can be exempt, all employees compensated on hourly rate basis must be classified as non-exempt.

### **Holidays**

Any employee who is required to work on a legal holiday shall be given compensatory time, within one year of the date of the holiday, at the convenience of the department in which employed, providing that the holiday has not been reassigned to accommodate the College of Charleston’s academic schedule. All **nonexempt employees** who are not allowed to take holiday compensatory time earned for working on a holiday within the one-year period, shall be compensated for the holiday at the straight hourly pay rate of the employee. If the employee wishes to take the holiday on its regularly scheduled day the employee may use annual leave, with the approval of the supervisor.

Time worked on a legal holiday shall be used in computing total hours worked.

### **Adjusted Workweek**

Under warranted circumstances, a non-exempt employee may be required to work in excess of the normal workday and may be given time off during the same workweek at the rate of an hour for an hour to avoid working over 40 hours in a workweek. This adjustment is not allowed for hours worked between 37.5 and 40.0 hours during any workweek. This type of work rescheduling precludes working over 40.0 hours in a workweek and eliminates the need for overtime payment.

### **Flexible Scheduling**

Under warranted circumstances, a department may determine that a “flexible schedule” is appropriate. Flexible schedules are determined by department heads and require a fixed schedule. For example, an employee may be scheduled to come to work at 7:30 and leave at 4:00. The department head may set

an employees schedule in any combination of work hours that ensures coverage and appropriate production as long as the employee works at least 37.5 hours per week. This should be an on-going, set schedule and should not be revised unless circumstances and/or departmental needs warrant a change. This should in no way be construed as a license for the employee to set their own schedule or deviate from the prescribed schedule as determined by the department head.

### **On Call**

If an employee who is on-call is not confined to his or her home or any particular place but is required only to leave word where he or she can be reached, or a pager number, or cell phone number the hours spent on-call are not regarded as working hours.

### **Call Back**

In the event that an employee is called back to the campus for an emergency either before or after normal working hours, the employee will be paid for all time worked at the employee's regular rate. Non-exempt employees will be paid for a minimum of two hours unless the employee receives advance notice that the call is cancelled or the employee refuses alternate work that is offered upon reporting to work.

### **Shift Differential Pay**

Typically, shift differential pay is approved for positions in departments that require around-the-clock coverage or operations that consistently require late evening coverage. At the discretion of the supervisor, shift differential can be approved for shifts in which employees are required to work hours other than 8:30am to 5:00pm. Shift differential is paid on an hourly basis for all regularly scheduled hours worked on a shift that has been approved for shift differential. Shift rate differentials are established for evening and night shifts.

Supervisors are responsible for identifying the shifts that will be eligible for shift differential, the positions on those shifts that will receive the differential pay, and for communicating this information to their employees. A supervisor must be consistent in applying the chosen practices concerning shifts and positions throughout their area(s) of responsibility.

### **Meal Periods**

A bona fide meal period of thirty (30) minutes or more which occurs during the scheduled workday is not hours worked if the employee is completely relieved from duty for the purpose of eating a meal. For the College of Charleston, the meal period (lunch period) is one (1) hour each workday, except in the case of Physical Plant and Public Safety employees who work extended shifts, or in the case of a flexible schedule with at least a thirty (30) minute meal period.

### **Rest Periods**

Rest periods or "coffee breaks" of short duration must be counted as hours worked. One morning and one afternoon "coffee break" of no more than fifteen (15) minutes each is permitted. Breaks shall not be used to allow an employee to come in late, to leave early, or to extend the lunch period

### **Leave Status**

Time spent in leave status is not considered hours worked and therefore does not contribute to a 40 hour week in regard to overtime.

## **Leave Requests**

A written Leave Request Form should be completed when requesting any leave including annual, sick, and sick family, compensatory, bereavement, court leave, jury duty, family medical leave, military leave and leave without pay. Employees should sign and submit this form to their supervisor for approval. Once signed, the supervisor will return the form to the employee. The approved leave form will be retained by the employee until time sheets are completed for the pay period. The departmental designee will collect and maintain Leave Request Forms for at least one calendar year. The departmental supervisors are responsible for ensuring that all of their employees report their time accurately and on time.

Paid annual or sick leave can only be approved if leave is available.

Temporary employees do not accrue leave of any kind, nor compensatory time, and cannot be paid for time not worked.

Faculty members accrue only sick leave and are required to report such leave in the same manner and increments as staff employees.

## **Family Medical Leave Act (FMLA)**

Please refer to the Family Medical Leave Act for full details of the Act.

Under normal circumstances, Leave Request Forms should be submitted and authorized as above when FMLA leave can be planned in advance. Should an employee be advised not to return to work by an appropriate medical practitioner and the employee is unable to submit the usual Leave Request Form in advance, the properly signed Certification of Physician or Practitioner Form shall be submitted to the Human Resources Office as soon as possible. If an employee becomes gravely ill or is involved in an accident which renders them unable to submit the required forms, supervisors should work closely with Human Resources in assisting the employee in filing FMLA and/or Leave Request Forms as soon as it is practical to do so.

Certification forms must be filed with Human Resources. Due to privacy regulations, supervisors do not have the right to know the details of the employee's condition. Human Resources can inform the supervisor of the probable duration of the condition and nothing more.

## **Travel Time (Nonexempt)**

Travel time for non-exempt employees may be hours worked under some conditions. Ordinary home-to-work travel or vice versa is not working time. All time spent traveling on one-day assignments is considered time worked regardless of time of day or day of the week.

Travel away from home involving an overnight stay for non-exempt employees is considered time worked when it occurs during the employee's normal working hours. This provision is applicable not only on regular working days, but also during the corresponding hours of non-working days.

## **Lectures, Meetings, and Training Employees (Non-exempt)**

When a non-exempt employee by reason of official responsibilities is required to attend lectures, meetings, training programs, etc., such time shall be considered work time.

## Hours of Work and Record-keeping for Non-Exempt Employees

Actual time in and actual time out must be recorded for non-exempt employees in administrative offices as it occurs on a daily basis. Each day's total work time must reflect at least 7.5 hours. If a combination of time worked and leave taken are reflected for a specific day, the total must equal 8.0 hours. If a full day of leave is taken, the leave must be recorded as 8 hours (leave accumulations are based on a 40-hour work week). Hours must be recorded in increments of 6 minutes (.10 of an hour) as indicated below:

Minutes	Tenth of an Hour
06	.10
07	.20
18	.30
24	.40
30	.50
36	.60
42	.70
48	.80
54	.90

Public Safety Officers, Sergeants and Corporals are normally scheduled to work twelve hours per day, alternating three days one week and four days the next week. If the employee works more than 84 hours in a two-week period, the employee shall be paid overtime on the hours that exceed 84 hours.

Paid annual or sick leave can be approved only if leave is available. The supervisor is responsible for verifying that leave is available before authorizing and submitting time sheets.

Supervisors are reminded that leave balances reflected on the time sheets are **not current**. If a supervisor wishes to verify leave balances, they should contact Human Resources prior to authorizing leave requests. Since time sheets are submitted after the pay period is over, leave and overtime are reported to Payroll in arrears.

Employee is required to complete and submit time sheets (according to the payroll cycle) to their supervisor for approval. No changes can be made to the time sheet without the employee's concurrence.

## Hours of Work and Record-keeping for Exempt Administrative Employees

Exempt employees must record ALL leave taken. Employees are required to complete and submit time sheets (according to the payroll cycle) to their supervisor for approval. No changes can be made to the time sheet without the employee's concurrence.

Paid annual or sick leave can be approved only if leave is available. The supervisor is responsible for verifying that leave is available before authorizing and submitting time sheets. Each day's total work time must reflect at least 7.5 hours. If a combination of time worked and leave taken are reflected for a specific day, the total must equal 8 hours. If a full day of leave is taken, the leave must be recorded as 8 hours.

Supervisors are reminded that leave balances reflected on the time sheets are **not current**. If a supervisor wishes to verify leave balances, they should contact Human Resources prior to authorizing leave requests. Since time sheets are submitted after the pay period is over, leave is reported to Payroll in arrears. Approved leave request forms should be submitted to the supervisor at the end of the pay cycle and retained for verification purposes.

### **Hours of Work and Record-keeping for Temporary Employees**

Actual time in and actual time out must be recorded for temporary, hourly employees as it occurs on a daily basis. There is a lag time for payment of services for temporary employees – refer to current payroll schedule as well as dates reflected on the time reports to determine pay dates. Temporary employees are required to follow the same leave request process as all other employees, but are paid only for those hours worked. No changes can be made to the time sheet without the employee's concurrence.

Falsification of any time report shall be cause for disciplinary action up to and including dismissal.

## **OVERTIME**

### **General Policy on Overtime**

Overtime shall be an **exception** to the regular work schedule. An employee should only be required to work overtime on an occasional basis to meet a sudden increase in the workload, to overcome productive time lost due to some mechanical failure, or to meet the demands of a crisis situation.

Overtime is defined as all hours worked in excess of 40 hours within a seven (7) consecutive day work period, which begins at 12:01 a.m. on Sunday and ends at 12:00 midnight on Saturday. In computing the 40-hour base, hours worked do not include leave time, holiday or other paid or unpaid leave. In instances where the combination of hours worked (40 hours or less) and leave exceed 40 hours, for non-exempt employees, those hours in excess of 40 shall be compensated at the regular hourly rate of the employee. All requests for overtime must be submitted in writing and approved in advance.

When any department and/or individual is found to be consistently charging overtime, the functions of that department and/or individual should be reviewed by appropriate management. Every attempt should be made to avoid the repetitive and chronic use of overtime.

It shall be the responsibility of the department head to determine that the provisions of this policy are administered in the best interest of the College of Charleston and in accordance with the Fair Labor Standards Act (FLSA). Although each manager is responsible for the requesting of overtime, it is equally important to control unauthorized overtime. Unauthorized work must be counted as hours worked even if the responsible manager could have stopped it but did not.

Compensatory time off is an acceptable alternative to overtime compensation for non-exempt employees. If such work is other than in a public safety activity, an emergency response activity or a seasonal activity, an employee engaged in such work may not accrue more than 240 hours of compensatory time. Any employee who has accrued 240 hours of compensatory time shall, for additional overtime hours of work, be paid overtime compensation. Compensatory time must be

used within 90 days of the date on which it was earned or the employee must be compensated for the time.

**Public Safety employees** may accrue up to 480 hours of compensatory time. Any Public Safety employee who has 480 hours of compensatory time shall, for additional overtime hours be paid overtime compensation.

Upon termination of employment, non-exempt employees with appropriate records and approvals shall be paid for unused compensatory time based upon their final rate of pay.

### **Overtime Pay (Non-exempt)**

A nonexempt employee shall be paid no less than one and one-half (1.5) times his/her regular rate of pay for all hours worked over 40 in a workweek or granted compensatory time at a rate of one and one-half (1.5) hours for each hour of overtime worked. Non-exempt employees shall not receive additional compensation nor any compensatory time for hours worked between 37.5 and 40.0 hours per workweek.

### **Overtime/Compensatory Time May Not Be Waived (Off the record adjustments)**

The requirements that overtime pay must be paid or compensatory time granted to non-exempt employees after 40 hours of work in a workweek shall not be waived by agreement between the supervisor and the employee.

### **Overtime/Exempt Employees**

Exempt employees may receive compensatory time off for hours worked, for time spent traveling, or for attendance at lectures, meeting, training programs, etc., in excess of the normal workweek (40 hours per week). It is expected that exempt employees will experience a certain amount of "casual overtime" in the performance of their duties. "Casual overtime" refers to time worked in excess of 40 hours in a workweek which the employee believes is necessary to accomplish an assignment or task, although the hours worked are not specifically required by the supervisor and/or department head. "Casual overtime" is not compensable through monetary compensation nor compensatory time.

On those occasions when it becomes necessary for a supervisor and/or department head to require an exempt employee to work excessive hours on a given project or event, the supervisor may authorize compensatory time. Compensatory time must be used within 90 days of the date on which it was earned or it shall be forfeited.

**NOTE:** If authorized, it must be at a rate of one (1) hour of compensatory time for each hour worked in excess of 40.0 in the official workweek. Exempt employees cannot be paid for overtime.

Upon termination of employment, exempt employees shall not be paid for unused compensatory hours.