



## Professional Personnel – Overtime / Compensatory Time Procedure

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### I. POLICY

Colorado Mesa University (CMU) grants compensatory time in lieu of paid overtime for hours worked in excess of 40 hours per work week for non-exempt employees under the Fair Labor Standards Act (“FLSA”). Compensatory time off at a rate of time and one-half will be provided in lieu of overtime payments to a maximum accrual of 40 hours (60 hours at time-and-one-half). Any overtime hours in excess of the maximum accrual for compensatory time will be paid to the employee in the paycheck covering the payroll cycle in which the hours were worked. The appointing authority or their delegate may approve overtime to be paid in lieu of compensatory time when deemed appropriate by the appointing authority or their delegate. Upon approval, compensatory time may only be used in place of regularly scheduled work hours.

**Whenever feasible, efforts should be made to avoid an employee working more than 40 hours in a workweek (e.g., adjusting an employee’s work hours within the same workweek).**

### II. AUTHORITY FOR CAMPUS PROCEDURE

The Colorado Mesa University Board of Trustees has approved this benefit program. May 24, 2017

### III. DEFINITIONS

- A. Work Week: The standard workweek for determining when overtime (or compensatory time) occurs is from 12:00 A.M. Saturday through 11:59 P.M. Friday. Alternate workweeks may be defined for specific job groups or classifications. Official closings and holidays shall not be counted as hours worked during a week.
- B. Compensatory Time: An arrangement by which eligible, non-exempt employees are entitled to time off in lieu of receiving overtime pay. Compensatory time is accrued at 1.5 hours for each hour of overtime worked.
- C. FLSA: Fair Labor Standards Act (FLSA) was passed by Congress in 1938 to establish a minimum wage, overtime compensation standards, records keeping requirements, child labor provisions and other regulations that affect employees and labor. In 1985, the U.S. Supreme Court mandated the application of the Act to all state and local governments.
- D. FLSA Exempt: Exempt employees meet the criteria that the employee (1) is paid a certain salary, which can be subject to only limited deductions; (2) meets one of the duty-basis tests under the FLSA. An exempt employee is exempt from the minimum wage and overtime compensation requirements of the FLSA.
- E. FLSA Non Exempt: Non-exempt employees do not meet the criteria for any of the exemption categories and/or the salary-basis requirements and are eligible for overtime under the FLSA.

- F. Overtime: Any hours worked over 40 hours during a workweek by an FLSA non-exempt employee.
- G. Overtime Payment: Compensation paid to the employee at 1.5 times their rate of pay for each hour of overtime.
- H. Professional Personnel: Employees who are Faculty, Administrators or Auxiliary employees of the University as defined in the Professional Personnel Employment Handbook.
- I. Time Worked: The following is an example of “work time”, it is not an all-inclusive list:
- Work performed during the employees 8-hour day when on campus or at another worksite off campus.
  - Travel in accordance with the CMU Travel Technical Guidance.
  - Time spent reading and responding to email or text messages outside of the typical work day.
  - Mandatory training or meetings are work time. Voluntary training during normal work hours is work time. Voluntary training must be pre-approved by the supervisor and must relate to the employee’s current position.
  - Lunch hours are not time worked. Lunch hours should be taken away from the employee’s desk or typical place in which they perform their job.
  - Annual leave, sick leave, official closings and holidays and other forms of paid leave, and compensatory time are not work time.

## V. **PROCEDURE**

- A. Human Resources (HR) designates positions as FLSA exempt or non-exempt based on (1) the content of the job’s duties at the time of the job’s creation or in the event the position description is updated because of a change in assignment or a change in duties; and (2) how the position is compensated.
- B. When an FLSA non-exempt employee works hours that will create overtime, overtime compensation will be provided in the form of compensatory time, unless otherwise authorized by the department head or their delegate to be paid as overtime compensation.
- C. To avoid overtime, at the discretion of the supervisor an employee may work a flexible work schedule within the same workweek. For example, in the event that an employee needs to work on a Saturday, the supervisor and employee may agree to another day off within that same work week to avoid working more than 40 hours within that week.
- D. All FLSA non-exempt employees must sign the Compensatory Time Agreement Acknowledgement as a condition of employment.
- E. Overtime hours may be approved by the department head or their delegate on the basis of emergency circumstances or when it is impractical to maintain an additional temporary workforce adequate to handle peak loads during regular hours.
- F. All overtime worked must be approved in advance by the department head or their delegate and shall be in writing, unless in limited emergency situations, pre-approval is not feasible. In such situation, the supervisor should be informed immediately. Employees working unauthorized overtime, may be subject to disciplinary action.

- G. All FLSA non-exempt employees must complete and sign accurate timesheets and submit them to their supervisor for review and approval within the deadlines established by the Payroll Office. The signed timesheet is a legal payroll document supporting the employee's pay and is required by FLSA regulations.
- H. No more than 40 hours (60 hours at time and one-half) of compensatory time may be accrued and held in an employee's balance. Any balance of hours above 60, must be paid as overtime compensation.
- I. It is intended that employees who have earned compensatory time off will be granted use of that time as soon as practical after the time's accumulation. Compensatory time must be taken within the fiscal year in which it is earned.
- J. Requests to use accrued compensatory time are handled in the same manner as annual leave requests and must be requested in advance.
- K. Records of compensatory time earned and used must be provided to the Payroll Office within the deadlines set for each pay period.
- L. If compensation is paid to an employee for accrued compensatory time off, such compensation shall be paid at the regular rate earned by the employee at the time the employee receives such payment.
- M. Prior to the effective date of an employee changing assignments, being transferred or promoted, any accrued compensatory time may be paid (at the discretion of the employer), as compensation to the employee prior to such change.
- N. Upon termination of employment, if an employee has accrued compensatory time they shall be paid for the unused compensatory time at a rate of compensation not less than: (1) the average regular rate received by such employee during the last 3 years of the employee's employment, or (2) the final regular rate received by such employee, whichever is higher.

## VI. RESPONSIBILITY

- A. Appointing Authority (Vice President of Finance and Administration) delegates to the department heads the authority to approve overtime.
- B. Employee is responsible for submitting true and accurate time cards each pay period.
- C. Department Head is responsible for approving overtime prior to the overtime occurring. In addition, the Department Head is responsible to ensure that time is accurately recorded by each employee and that the time is designated as overtime compensation or compensatory time. The Department Head may delegate this responsibility to the immediate supervisor.

Payroll is responsible for ensuring a maximum accrual of 40 hours (60 compensatory hours) for each employee. Payroll is also responsible for paying as a cash overtime payment any overtime hours in excess of the maximum compensatory time accrual.

## VII. ATTACHMENTS

# Compensatory Time Agreement Form