**Scope**

This policy applies to Non-Exempt staff and Temporary employees who are covered by federal Fair Labor Standards Act (FLSA) overtime pay provisions.

**Policy Statement**

1. The Fair Labor Standards Act (FLSA) requires that covered employees receive overtime pay for work over 40 hours in a workweek.
   a. Exempt staff are not covered by FLSA overtime provisions and are not eligible for overtime pay under university policy.
   b. All Non-Exempt staff and all Temporary employees are covered by the FLSA and required to be paid overtime for work over 40 hours in a workweek. The university's workweek is defined as beginning and ending at 12:00 midnight on Saturday.
      i. For Non-Exempt (excluding PAU) staff, overtime pay must be compensated at a time and one-half rate in the form of extra pay or compensatory time off subject to compensatory time off procedures (OVT or CPE).
      ii. For Non-Exempt PAU staff positions, overtime pay must be compensated at an additional half-time rate in the form of extra pay. Compensatory time off does not apply to Non-Exempt PAU staff (OVS).
      iii. For Temporary employees, overtime pay must be compensated at a time and one-half rate in the form of extra pay. Compensatory time off does not apply to Temporary employees.
   2. Except for the paid time-off categories discussed below, paid time off such as vacation, PTO, sick time, Income Protection, and compensatory time off, does not count as part of the 40 hours in a week to determine if overtime pay is applicable and the amount of overtime pay that is due.
   3. It is the responsibility of supervisors to plan and schedule work of employees covered by FLSA provisions so that it can be performed within the regularly scheduled hours.
   4. Although mandatory overtime is discouraged, it is expected that employees will accept reasonable assignments to work overtime except where cases of personal emergency exist. It is the employee’s responsibility to bring to the supervisor’s attention the nature of a personal emergency so that the supervisor can make a decision to require the overtime work or not.
   5. Employees must have supervisory permission to work overtime.

**Reason For Policy**
The Fair Labor Standards Act is complex with a long history of federal regulations and rulings written to explain and aid in the application of the act. This policy provides university managers and supervisors with directions necessary to comply with overtime pay provisions of FLSA.

**Procedure**

**Assigning overtime work for Non-Exempt staff and Temporary employees**

1. When overtime work is scheduled in advance, departments should:
   a. Schedule qualified Staff employees so that they rotate turns having the opportunity to work the hours.
   b. Schedule qualified Staff employees according to their seniority within an occupational unit.
      1. Non-Exempt CWA staff employees are scheduled overtime according to their university seniority.
   c. Provision b. does not apply when the assignment is for time immediately before or after the Staff employee’s regular hours and the work is the continuation of the employee’s regular work assignment.
   d. Departments may have other overtime assignment arrangements for which there are long-standing practices and mutual, written agreements between management and a union which are recognized by the parties.

2. Before overtime can be assigned to a Temporary employee within an occupational unit, the work must first be offered to all Staff employees within the respective employee group (i.e. Non-Exempt staff).

3. When selecting a Staff or Temporary employee to work the assignment, it is the department’s prerogative to determine whether an employee is qualified and can satisfactorily perform the required work.

**Paid time-off that counts toward overtime pay for Staff employees**

1. The following six categories of paid-time-off count as part of the 40 hours in a week to determine if overtime pay is applicable and the amount of overtime pay that is due.
   a. **Adverse Weather** – Used only when the administration closes a campus due to adverse weather (WTH).
   b. **Adverse Working Conditions** – Used only when a Chancellor, Provost, or Vice President closes all or part of a campus due to adverse working conditions (ADW).
   c. **Emergency Rest Time** – Used only for Non-Exempt AFCSME Service staff employees at Bloomington who have worked for more than 16 continuous hours and who are required to take time off from work immediately after the emergency has ended to insure an adequate break from work for safety purposes (ERT).
   d. **Holiday** – Used whenever any holiday time is taken, including on the day observed (HOL) and at a later time (HTK). Campus Holiday is included.
   e. **Injury with pay-1st 7 days** – Used to cover the time when the university is paying the employee’s full salary during the first seven calendar days of the injury. This benefit is limited to a total of 40 hours of INJ time per year. The other injury related time off codes will not count towards overtime.
   f. **Union Administrative Time (UNB)** – CWA, AFSCME Police, or AFSCME Service.

2. All other categories of paid time off do not count as part of the 40 hours in a week to determine if overtime pay is applicable.

3. When an employee uses paid time off applied to any of these other categories (vacation, sick, PTO, etc.), there may be hours worked outside of the employee’s regular schedule that do not qualify to be paid as overtime. These hours worked will be compensated at a straight time rate either in the form of pay or compensatory time off at the department’s choice. Two new payroll codes have been developed to use for these hours:
   a. **NEP** Non-overtime eligible pay
   b. **NEC** Non-overtime eligible comp time (no pay)

4. In units that permit flexible or alternate work schedules, adjustments may occur in the number of hours applied to time off. If a department has given the employee a flexible scheduling option—or an arrangement is made
prior to taking the time off—the amount of time applied to vacation, sick, PTO or absent without pay time may be reduced so that the total of time off and time worked equals 40 hours with no NEP or NEC time.

**Compensation for overtime work for Non-Exempt (excluding PAU) staff, Temporary employees.**

1. Non-Exempt (excluding PAU) staff must receive overtime compensation for hours worked in excess of 40 hours in a week. The overtime compensation shall be at a time and one-half rate either in the form of pay or compensatory time off. Compensatory time off is subject to the rules below (OVT or CPE).
   a. Temporary employees receive overtime pay at the rate of time and one half for the overtime work performed for hours worked in excess of 40 hours per workweek (OVT). Compensatory time off does not apply to Temporary employees.

2. The rate used to determine the time and one-half FLSA rate will be calculated to include temporary pay, reward and recognition pay, premium pay, or other pay that the employee received during the week in which the hours over 40 were worked.

**Compensation for overtime work for Non-Exempt PAU staff**

1. Overtime compensation for all Non-Exempt PAU staff employees.
   a. Non-Exempt PAU staff must receive overtime compensation for hours worked in excess of 40 hours in a week. The overtime compensation shall be at a rate equal to half-time the rate for the work performed in excess of the 40-hours per week (OVS). This compensation must be in the form of additional pay.
   b. Compensatory time-off does not apply to Non-Exempt PAU staff.

2. The rate used to determine the time and one-half FLSA rate will be calculated to include temporary pay, reward and recognition pay, premium pay, or other pay that the employee received during the week in which the hours over 40 were worked.

3. Additional options for compensating Non-Exempt PAU staff who work over their standard weekly hours but less than 40 hours are available in the PAU policy.

**Rules related to compensatory time off for Non-Exempt (excluding PAU) staff (Compensatory time off does not apply to Non-Exempt PAU staff and Temporary employees)**

1. It is management’s choice as to which form of overtime pay is used and the decision should be announced to the employee before the overtime is worked.

2. Non-Exempt (excluding PAO and PAU) staff employees should not accumulate more than 80 hours of compensatory time.

3. Staff classified as Non-Exempt PAO staff should not accumulate more than 160 hours of compensatory time.

4. The campus human resources office may approve higher accumulations for unusual circumstances that are in the university’s best interest, up to the FLSA mandated limit of 240 hours; for law enforcement, fire protection, emergency response personnel, and employees engaged in seasonal activities, Indiana University Human Resources may approve accumulations up to 480 hours as allowed under the FLSA.

5. Unless a campus has established a different procedure, when the maximum accumulation has been reached, payment at a rate of pay equal to one and one-half the regular rate for the work performed is the only option until the accumulated compensatory time drops below the limit.
   a. For Non-Exempt staff (excluding PAO and PAU), all compensatory time off accumulated by an employee in excess of 80 hours on November 1st will be paid (CMP) in the first pay period following November 1st. At this time, employees may choose to be paid for any accumulated compensatory time between 40 and 80 hours (CMP).

6. Accumulated compensatory time off may be taken whenever it is mutually agreeable with the employee and the supervisor. See the Family and Medical Leave Act (FMLA) Rights policy for the provisions related to the use of compensatory time during an FMLA covered absence.

7. A department may convert accumulated compensatory time to pay at any time.
8. When an employee promotes, demotes or transfers to another department or to a position in the same department not eligible for overtime compensation, any accumulated compensatory time must be granted as time off or pay before the move.

9. When an employee leaves university employment, whether through voluntary or involuntary means, they will be paid any unused accruals of compensatory time.

Finishing up time at the end of a workday for Non-Exempt staff (excluding PAU) and Temporary employees

1. At the end of a workday, employees occasionally need less than 15 minutes to complete their duties. Employees may be compensated for this time by allowing them to arrive to work late or leave work early, on another day of the same workweek. The late arrival or early departure time must not exceed the finishing up time.

2. When finishing up time results in more than 40 hours being worked in the workweek, the excess is recorded as overtime at the end of the workweek.

Secondary employment for Non-Exempt staff and Temporary employees

1. A full or part-time Non-Exempt staff employee may be employed as a Temporary employee in another department and a Temporary employee may have multiple temporary jobs.

2. The compensation for overtime when an employee has more than one job will be based on a weighted average calculation for each week of work. This calculation uses the rates of all jobs for which work time was recorded during the week.

3. For Staff employees with temporary jobs, the overtime will be applied to the time worked in the Temporary job first. Overtime will only be applied to the Staff job when time worked in the Staff job exceeds 40 hours in the week.

4. For Temporary employees with multiple temporary jobs, the overtime will be applied to the job or jobs worked after exceeding 40 hours of work in the week.

Overtime for supervisory staff

1. Supervisory Staff should not work overtime or assign themselves to work overtime, unless they are scheduled to supervise employees who are working overtime. If sufficient Non-Exempt staff (excluding PAO and PAU) are not available, a General Supervisory Staff member may be scheduled to perform the required work.

Departmental and employee responsibilities

1. Departments are responsible for:
   a. Maintaining records of overtime worked and compensatory time earned and used.
   b. Accurately reporting overtime worked and compensatory time earned and used on the university provided records.

2. Employees are responsible for:
   a. Obtaining supervisory authorization before working any overtime.
   b. Actual time worked must be recorded pursuant to the Work Schedules and Hours for Non-Exempt Employees

Definitions

1. The university’s workweek is defined as beginning and ending at 12:00 midnight on Saturday.

2. Overtime is defined as hours worked in excess of 40 hours in a workweek.

Sanctions

Managers, supervisors, and employees who violate this policy are subject to disciplinary action, up to and including termination.

Additional Contacts
History

The Fair Labor Standards Act (FLSA) was originally passed in 1938 and has been amended numerous times since then. In addition to regulations on overtime pay, the FLSA establishes minimum wage, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in Federal, State, and local governments.

**July 2021**
Updates made to AFSCME Service procedures based on union discussions.

**February 2021**
Updated the staff employee group terms and the excess comp time payout date for Non-Exempt Non-Union Service staff due to Job Framework Redesign Project.

**July 2019**
Updates made to CWA procedures based on union discussions.

**January 2018**
Updated to correct an error created by the HR policies project.

**November 2017**
Updated to remove PAS salary plan

**December 2016**
Revised to add PAS salary plan

**February 2016**
Replaced the following policies:

<table>
<thead>
<tr>
<th>AFSCME Police</th>
<th>Overtime Pay for Staff and Temporary Employees</th>
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<tr>
<td>AFSCME Service</td>
<td>6.2 - Overtime Pay for Staff and Temporary Employees</td>
</tr>
<tr>
<td>CWA</td>
<td>5.3 - Overtime Pay for Staff and Temporary Employees</td>
</tr>
<tr>
<td>Professional and Support/Service Staff</td>
<td>4.4 - Overtime Pay for Staff and Temporary Employees</td>
</tr>
<tr>
<td>not covered by a union</td>
<td></td>
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<tr>
<td>Temporary</td>
<td>4.2 - Overtime Pay for Staff and Temporary Employees</td>
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Replaced parts of the following policies:

<table>
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<tr>
<th>CWA</th>
<th>Professional Staff and Support and Service Staff not Covered by a Union</th>
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</thead>
<tbody>
<tr>
<td>10.2 Rules and Guidelines for Filling Positions</td>
<td>3.2 Filling Positions</td>
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<td>• F.1</td>
<td>• G.1.a.</td>
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<td></td>
<td>• G.1.b.</td>
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Related Information

- Fair Labor Standards Act (FLSA)
- Family and Medical Leave Act (FMLA) Rights policy
- Work Schedules and Hours for Non-Exempt Employees
Alternative Work Schedules
Examples of Overtime Calculations