
OVERTIME

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Types of Overtime Compensation:

Employees, who work in the public sector, i.e. City, County and State government including public universities, may be eligible for overtime compensation. If an eligible employee works more than 40 hours in any work week, that employee must receive either 1) paid overtime or 2) compensatory time off (CTO). The election of which form of overtime compensation the employee will receive is at the sole discretion of UNCG.

- **Paid Overtime**
An eligible employee who works more than 40 hours in a work week may be paid for his/her overtime at the rate of "time-and-one-half" for all hours worked over 40. The overtime pay is determined using the employee's regular rate of pay.
When this option is selected by the employee and approved by management, the additional pay is to be included in the paycheck for the pay period in which the overtime was worked. Lack of funds does not relieve a department from its liability to compensate overtime work at the rate of time-and-one-half, unless compensatory time in lieu of overtime pay was selected and communicated to the employee.
- **Compensatory Time Off (CTO)**
Instead of "paid overtime" an employee may be given compensatory time off. Compensatory time off (CTO) is paid time off at the employee's regular rate of pay, however, the time is accrued at 1.5 hours for each hour worked in excess of 40 hours in a work week.

Eligibility

All SHRA permanent, time limited, part time, and temporary employees who are subject to the wage-hour provisions of the Fair Labor Standards Act (FLSA non-exempt) are entitled to overtime compensation. An employee's wage-hour status is based upon the FLSA exemption status of his/her position as determined by the Department of Human Resources. Management should consider existing workloads, staffing requirements, and availability of funds when deciding which overtime compensation option to use.

- **SHRA Permanent, Time Limited and Part Time Employees:** All permanent, time limited and part time "SHRA non-exempt" employees are eligible to receive either paid overtime or CTO.
- **SHRA Temporary Non-Exempt Employees:** All SHRA temporary non-exempt employees, including student employees, are eligible to receive paid overtime only; they cannot receive CTO.
- **SHRA Exempt and EHRA Employees:** This applies to UNCG faculty, EHRA non-faculty, and SHRA staffs (permanent and temporary) that are exempt from the wage and hour provisions of the Fair Labor Standards Act (FLSA).

In order to be exempt from the wage and hour provisions of the FLSA an individual must be employed in a bona fide executive, administrative or professional capacity. Such employees do not submit monthly time sheets.

Members of the faculty and staff whose duties and responsibilities are such that they (1) are determined to be exempt from the wage and hour provisions of the FLSA, and (2) earn annual/vacation and sick leave, are expected to account for periods of time away from work by submitting an approved [SHRA/ EHRA Exempt Leave Report \(.xls\)](#) to their departmental time keeper for input into the Banner HR system by the first of each month for any time off during the previous month.

While work schedules for exempt employees are not strictly defined, employees are expected to devote sufficient hours to ensure their job duties are accomplished in a professional manner and they are available during the normal business hours of their department. Vacation, sick leave, and bonus leave for exempt employees can be recorded in hourly increments on the [SHRA/ EHRA Exempt Leave Report \(.xls\)](#) , however, any actual reduction in pay for an exempt employee (because vacation, sick leave or bonus leave is exhausted, or for disciplinary reasons) must be accounted for in full day (8 hour) increments on the [SHRA/ EHRA Exempt Leave Report \(.xls\)](#).

Less than full time exempt employees, who earn leave, are expected to account for their leave time on a pro-rata basis, depending on the specific terms of their employment. Members of the faculty and staff who are exempt from the wage and hour provisions of the FLSA do not receive additional compensation or CTO from the University when they work more than forty hours in a work week (or the corresponding number of hours for less-than-full-time employees). However, the University recognizes that there are occasions when FLSA exempt employees may work a significant number of hours beyond the "standard" work week of forty hours (or the corresponding number of hours for less-than-full-time employees).

In exceptional circumstances, an employee, who is exempt from the FLSA and whose duties require work in excess of forty hours (or the corresponding number of hours for less-than-full-time employees) in a peak work period or on a special project, may, with approval of his or her supervisor, be allowed to take an agreed upon amount of time away from work. This should occur in rare instances and only when the employee has put in extraordinary hours beyond their general work time. This time away from work should generally be taken within a period of two weeks after the peak work period or project is completed.

For questions about this policy, please contact the EHRA-HR Office for EHRA employees and the Department of Human Resources for SHRA employees.

Determination of Overtime Compensation

It is management's sole discretion whether to permit or require an eligible employee to work more than 40 hours in any work week and thus, provide either overtime pay or CTO based upon availability of funds and/or operational needs of the work unit.

Eligible employees earn time-and-one half for all hours worked in excess of 40 hours in a work week. An employee must actually work over 40 hours to earn overtime compensation. Paid time that is not considered time worked (e.g., vacation, sick leave, administrative leave and most other types of leave or paid time off) does not count as time worked for the purpose of determining employee eligibility for overtime compensation.

Working more than eight hours in a work day does not necessarily constitute overtime. Overtime occurs only after working more than 40 hours in a work week. The work week at UNGC is defined as 12:01 AM Sunday morning to 12:00 Midnight Saturday night.

Management should give as much advance notice as possible of the need to work overtime so that employees can make any personal time arrangements necessary to enable them to perform the overtime work.

Note: Some work units may require occasional or regular mandatory overtime as a condition of employment. Such a requirement should be explained to job candidates prior to an offer of hire during the recruitment and selection process.

Gap Hours

For SHRA permanent non-exempt employees whose regular work schedule is less than 40 hours per work week, gap hours are those hours that are caught in the gap between the hours of work required to meet the work schedule and 40 hours during the defined work week. For example, if a permanent part-time employee is required to work 20 hours a week, any hours worked between 20 and 40 would be considered "gap hours."

For SHRA permanent non-exempt law enforcement employees whose regular work schedule is 28 days, gap hours are those hours that are caught in the gap between 160 hours and 171 hours worked before overtime compensation begins.

Gap hours can also occur during a workweek when a SHRA permanent non-exempt employee takes a holiday, civil leave, or other management approved leave that is not offset by hours worked in the same workweek. Example: if a full-time employee has a holiday on Monday, but also works 40 hours in the same workweek as the holiday. The employee will receive 8 hours pay for the holiday, 32 hours regular straight-time pay, and 8 additional gap hours compensation.

Employees shall receive straight time pay for the gap hours worked with the provision that the University has the option of providing cash payment or CTO on an hour for hour basis for gap hours worked. The decision to pay cash versus CTO shall be at the sole discretion of management. The Chancellor, or Chancellor's designee, shall determine the best method of compensation for gap hours worked based on consideration of availability of funds and/or organizational needs of the department. The decision to pay cash versus CTO should be applied consistently throughout a division or department with approval of the Vice Chancellor. The Chancellor or Chancellor's designee shall report the compensation method used to the Office of State Personnel. Exceptions to the agency's chosen compensation method must be reviewed and approved by the Office of State Personnel. *UNCG's preferred method of overtime compensation for Gap Hours worked is CTO.*

The following provisions apply to Gap Hours CTO:

- Gap hours CTO cannot be merged with regular CTO or any other compensatory leave accounts.
- There is no maximum accumulation for gap hours CTO. The University may choose to pay out accumulated gap hours CTO at any time based on availability of funds and /or organizational needs.
- Gap hours CTO shall be taken before any vacation or bonus leave. (Exceptions may be made for retirees who may need to exhaust vacation leave prior to retirement.)
- Gap hours CTO shall be taken within twelve months from the date the work is performed. If not taken within 365 days, the time shall be paid out in the next paycheck.
- If an employee separates before taking gap hours CTO, it shall be paid in a lump sum along with unused vacation.
- If an employee transfers to an SHRA exempt or EHRA Exempt position or to another state agency or university before taking gap hours CTO, it shall be paid in the current or next regular paycheck by the releasing agency.

Note: Temporary non-exempt employees or other hourly non-exempt employees who are in a non-leave earning appointment type shall receive straight time monetary payment for a standard 40-hour workweek, and an additional amount equal to 1.5 times the employee's regular hourly rate for all hours worked in excess of 40. Also, temporary non-exempt Law Enforcement employees shall receive straight time monetary payment for all hours worked up to 171 hours, and an additional amount equal to 1.5 times the employee's regular hourly rate for all hours worked in excess of 171. There is no option to award CTO or gap hours CTO for these temporary/hourly employees.

Avoiding Overtime Liability

The University administration encourages managers and department heads to avoid the necessity of paid overtime or CTO if at all possible. The necessity of regularly scheduled overtime or continued need for overtime to accommodate the objectives and goals of the department may indicate that a program review is necessary to determine if work flow is defined as efficiently and effectively as possible.

If a non-exempt SHRA employee works more than his/her regular hourly schedule on one day in the work week management may allow or direct the employee to take off an equal amount of time during the same work week (without charge to leave) on a different day so that the total work time does not exceed 40 hours for the entire work week. **For example:** An employee who works 12 hours during a work day may be directed to work 4 hours the next work day. The effect is that the employee has worked a total of 16 hours in two work days and if her/she works the standard number of days and hours for the rest of the work week, no overtime is incurred.

When CTO is selected, the time off must be scheduled by the supervisor. Every effort should be made to accommodate the preference of the employee when scheduling CTO. The maximum amount of CTO an employee may carry at any time is 240 hours (160 hours of work x 1.5) pro-rated for part-time employees. Any CTO in excess of the 240 hour maximum must be paid in the employee's next paycheck.

Payouts & Transfers

CTO must be taken within 12 months of the date in which it was accrued. If management is not able to schedule the compensatory time off within this time period, the liability must be paid to the employee no later than the next pay cycle following the end of the 12 months.

Note: If a non-exempt SHRA employee is scheduled for a period of leave (voluntary shared leave, Family Medical Leave (FMLA), leave without pay, etc.), and will not be able to use earned CTO or accrued paid time off that is due to expire during his or her absence, all such paid time off must be paid out to the employee on its expiration date or in the next pay cycle.

When an employee leaves the University or transfers to another University department, the department the employee is leaving must pay out all accumulated and unused CTO unless the receiving department is willing to accept all leave liabilities.

Employees whose FLSA status changes from Non-Exempt to Exempt must be paid for all accumulated and unused CTO at the time of the status change.

Record Keeping

Each department is responsible for recording all overtime and compensatory time for its employees in the HR Banner System.