



SUBJECT: WORKER HOURS AND OVERTIME COMPENSATION
ISSUED BY: HUMAN RESOURCES
APPROVED BY: ADAMS STATE COLLEGE
EFFECTIVE DATE: SEPTEMBER 1, 1992

I. INTRODUCTION

The Fair Labor Standards Act (FLSA) was passed by Congress to establish minimum wage, overtime and other regulations affecting private sector employees. It has since been amended to include state and local government employees.

The Wage and Hour Division of the U.S. Department of labor is authorized to survey agencies and to investigate alleged violations of FLSA. In addition, the Department of Labor is empowered to initiate legal action against an employer on an employee's behalf. Where violations have been found to occur, an agency may be liable for attorney's fees, liquidated damages, and fines, in addition to any overtime compensation payments.

These procedures are being established at Adams State College in order to insure the College's work hours and overtime compensation practices are in compliance with the Fair Labor Standards Act and the State of Colorado Fiscal Rules.

The Director of Human Resources is charged with administering the Fair Labor Standards Act, Colorado Fiscal Rules and these policies.

II. EMPLOYEES

There are two categories of employees recognized by Adams State College as established under FLSA; exempt and non-exempt.

- a. Exempt employees (Executive, Professional and Administrative) are paid a salary, not an hourly wage, and are not covered by the minimum wage and overtime compensation for hours worked in excess of 40 hours per work week.
- b. Non-exempt employees do not meet any of the criteria established for exemptions from the FLSA or are paid on an hourly basis. These employees are covered by the minimum wage established by the Federal government and must receive overtime

compensation for hours worked in excess of 40 hours per work week.

- c. All faculty, administrators and contract staff are considered to be exempt employees. All students are considered non-exempt employees. For information about classified positions at Adams State College and their current exemption status as determined by the Colorado Department of Personnel, please contact Human Resources.

III. HOURS WORKED

- a. Adams State College has an established work week that begins at 12:01 a.m. Saturday and ends at 12:00 midnight on Friday. In determining the number of hours worked in a work week, hours taken as holiday leave, sick leave, vacation leave, administrative leave, etc. are considered to be work time.
- b. As a general rule, full-time employees are expected to work during the regularly established work day (7:30 to 4:30 during summer and 8:00 to 5:00 during academic year). Adams State College does not have a formal flex-time work program established. Any exceptions to the established workday must be approved by the Director of Human Resources.
- c. Lunch breaks of one hour must be given to all non-exempt full time employees and are not considered as work time. Any exceptions to this policy must have prior approval from the Director of Human Resources.
- d. Adams State College allows 20 minute work breaks, which are considered work time, for each 4 hours of scheduled work. These breaks are a privilege, not a right, and are not cumulative. Generally, all work breaks should be taken on campus. Breaks taken off campus should be the exception, not the rule. Immediate supervisors should be notified when an employee is going off campus on a work break.
- e. Except during an emergency (power outage, broken water main, etc.), no overtime may be scheduled for non-exempt employees without prior approval from the Director of Human Resources.

IV. OVERTIME COMPENSATION

- a. If a non-exempt employee works more hours than the regularly scheduled shift, every effort should be made to schedule time off during that work week on an hour for hour basis.
- b. If it is not possible to schedule time off within the work week, the employee must be given overtime compensation at 1 ½ times the hours worked in excess of 40 hours per week. For example, 42 hours worked results in 3 hours of overtime compensation earned.

It is the policy of Adams State College that all overtime worked will be compensated with time off unless otherwise approved by the Director of Human Resources and the Business Manager. The employee must agree, in writing, to accept time off in lieu of payment prior to working the overtime. If an employee will not agree to compensatory time off, that employee should not be scheduled to work overtime.

- c. The Colorado Fiscal Rules allow an employee to accumulate a maximum of 60 hours of compensatory time at any given point in time. Any overtime earned in excess of that amount must be paid for in cash. Accumulated comp time must be taken within two months after the payroll period in which the overtime was worked.
- d. Some hours not actually spent at the work site may be considered compensable as overtime hours worked. Each supervisor should contact the Human Resources Office for a determination of hours worked prior to scheduling a non-exempt employee for any unusual assignments.

V. SUPERVISOR AND EMPLOYEE RESPONSIBILITIES

- a. It is the responsibility of all supervisors to make sure that non-exempt employees do not work over 40 hours in a work week. Employees who voluntarily continue working before and/or after their scheduled shifts are entitled to overtime compensation for that time worked in excess of 40 hours. **EMPLOYEES CANNOT WAIVE THEIR RIGHTS TO OVERTIME COMPENSATION.**
- b. Each supervisor and employee must sign a time sheet certifying "...hours and minutes shown herein are a complete and accurate record of time worked each day and for the reporting period. All leave taken and/or overtime earned or taken as compensatory time was reported and approved by my supervisor." If a supervisor signs the time sheet knowing that the employee worked overtime that is not reported, that supervisor is in violation of the Colorado Fiscal Rules and the regulations of the Fair Labor Standards Act.
- c. If an employee continues to work hours before and/or after regular work time following notification that it is against policy, a formal corrective action should be issued by the supervisor. However, the issuing of such a corrective action does not relieve the agency from liability for overtime compensation.

VI. EXAMPLES

- a. Volunteers: If an employee volunteers time to an agency in a capacity substantially different from the duties of his/her regular job, the time volunteered would not be considered overtime work.

However, If the volunteer work requires skills used in the regular job, the time would be considered overtime.

- i. Example #1: A clerical employee volunteers to serve as piano accompanist for a student recital held after work hours, the employee would not be eligible for overtime compensation.
 - ii. Example #2: A maintenance mechanic volunteers to help a student organization build play props during his/her regularly scheduled days off. The employee would be eligible for overtime compensation because the voluntary work is similar to that required by his/her regular job.
- b. Work hours/compensable overtime
- i. Example #1: A non-exempt clerical employee is required to spend four hours one Saturday helping with freshman student orientation. The supervisor schedules the employee to take off work for hours on the following Friday afternoon. The employee is not entitled to overtime compensation because the total number of hours worked in the work week did not exceed 40 hours.
 - ii. Example #2: A custodian is scheduled to work from 8-5 Monday through Friday. On Friday morning, the employee reports to work at 7:30 am in order to complete a project started the night before. The custodian begins working at 7:30 but does not punch the time clock until 8:00; the supervisor is aware that the employee started work at 7:30. The employee is eligible for and must be given 45 minutes of overtime and compensation.
 - iii. Example #3: A non-exempt employee works 20 hours overtime during the month of January. The employee is given 10 hours of comp time during the following month and another 10 hours of comp time during the second month following the pay period in which the overtime was worked. He must be paid an additional 10 hours of comp time during the next pay period.

All Adams State College employees and supervisors are expected to follow these policies. If you have any questions regarding interpretation of unusual situations relative to the Fair Labor Standards Act, the Colorado Fiscal Rules or these policies, please contact the Human Resources Office.

REFERENCES:

Fair Labor Standards Act: 29 U.S.C. 20, et. seq.

Colorado Fiscal Rules: Chapter 2

Colorado Department of Personnel Procedures: P15-1-1