

**Policy 1303**  
**Provisions for Granting Overtime and Compensatory Leave**

**Date of Current Revision: October 2013**  
**Primary Responsible Officer: Director of Human Resources**

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**1. PURPOSE**

This policy establishes an overtime and compensatory leave policy at James Madison University as provided by the Fair Labor Standards Act (FLSA) which applies to all JMU employees.

**2. AUTHORITY**

The Board of Visitors has been authorized by the Commonwealth of Virginia to govern James Madison University. See Code of Virginia section 23-164.6; 23-9.2:3. The board has delegated the authority to manage the university to the president.

**STATE OR FEDERAL STATUTE AND/OR REGULATION**

The Fair Labor Standards Act, 29 USC 201, et seq., directs, among other things, that employees be paid at a rate of time and a half for every hour worked in excess of 40 hours in one workweek. This is the case unless an employee is considered 'exempt' from the Act's overtime provisions.

**3. DEFINITIONS**

**Exempt Employee**

An employee who is exempt from the overtime provisions of the FLSA and accordingly is not eligible to be paid overtime by the university. Such positions are normally supervisory, management, and administrative positions, or specialized positions such as faculty members and information technology, and must meet the specific criteria for exemption established by the FLSA. The FLSA status of each position is evaluated using the primary duties and responsibilities of that position and not the working title.

**Fair Labor Standards Act**

The Fair Labor Standards Act (FLSA) establishes overtime pay affecting full-time and part-time workers. Overtime pay at a rate of not less than one and one-half times the regular rate of pay is required after 40 hours of work in a workweek.

**Non-Exempt Employee**

An employee who is not exempt from the overtime provisions of the FLSA and thus must be paid at a rate of one and one-half times her/his regular rate of pay for hours worked in excess of 40 in a workweek.

**4. APPLICABILITY**

This policy applies to all employees of the university. Overtime provisions apply only to non-exempt employees.

**5. POLICY**

All employees of James Madison University are covered by the FLSA, although some employees are exempt from its overtime provisions depending upon the type of positions the employees occupy. For purposes of FLSA, each position must be designated exempt or non-exempt. Exempt

employees will not receive overtime pay regardless of the number of hours worked. They are also exempt from receiving compensatory leave except for hours worked on a scheduled holiday or inclement weather day. Under rare circumstances, certain exempt employees may qualify for extra pay for additional work performed. Contact Human Resources for details.

All positions in pay bands 1 and 2 will receive a non-exempt status. The status of positions in pay bands 3 and 4 are determined by the duties and responsibilities of the position. Positions in pay bands 5 and higher are generally exempt positions. Hiring supervisors will inform employees of their exempt/non-exempt status.

Senior Administrators, department heads, or supervisors are required to approve overtime before any non-exempt employee performs the work in excess of 40 hours per week. Authorization will be granted only to cover emergencies and to provide for staff coverage during peak workloads.

Departments have the option of choosing to offer Overtime Leave for classified non-exempt employees in lieu of cash compensation (see section 6.5 below). However, this choice is strictly at the department's discretion.

## **6. PROCEDURES**

6.1 Although pay is processed on a semi-monthly schedule, the FLSA requires that hours worked in excess of 40 in a regular workweek by non-exempt employees be compensated at one and one-half times the regular rate of pay. The regular workweek begins 12:01 a.m. Sunday and ends at midnight the following Saturday, except for those employees whose workweek is designated differently.

Non-exempt employees will be granted compensatory leave that is hour for hour for time worked beyond the required hours in a workweek in which no more than 40 hours are actually worked. This may happen when an employee has used annual, sick or compensatory leave during the workweek. Eligible exempt and non-exempt employees will be granted compensatory leave when required to work on a holiday or inclement weather day. For further clarification please refer to DHRM Policy [3.10-Compensatory Leave](#) and Policy [4.25-Holidays](#).

6.2 For classified non-exempt employees, department heads or supervisors must submit an authorized Record of Overtime Pay to Payroll Services or an authorized Record of Overtime Leave to Human Resources.

6.3 For wage (i.e., part-time and student) employees, overtime hours must be properly reported to Payroll Services on the JMU Time Entry panels. Care should be taken not to report overtime hours as regular hours. When determining overtime, ALL hours worked *for the university* are calculated.

6.4 The [Student and Wage Employee Time](#) Sheet (or alternative time sheet that contains the same information) must be maintained for each non-exempt wage (part-time and student) employee. A [Time and Attendance Record](#) for non-exempt classified employees must be maintained. Both time records must include a daily record of all paid and non-paid leave used. The paid leave includes annual leave, sick leave, holidays, workers' compensation, civil leave, inclement weather days, and military leave. The unpaid leave would include leave without pay and suspension. In addition, the employee and supervisor's signature must be on the Time and Attendance Record and Student and Wage Employee Time Sheet (or alternative time sheet) for each payroll period to certify that the time recorded is accurate. Refer to Financial Procedures Manual section 5005.321.

Time and attendance records are retained in Human Resources for at least four years or until audited, whichever is longer.

6.5 As an alternative to cash payments for overtime hours worked, a department head/supervisor may choose to give their non-exempt employees the option of receiving Overtime Leave instead of cash payments for hours worked in excess of 40 during the regular workweek. When choosing to use this option, the supervisor should discuss the option with the employee who is expected to incur overtime hours. The employee may then choose either to receive cash payment for overtime hours worked or Overtime Leave as compensation. If the employee chooses cash payment, the current procedure of reporting the hours directly to the Payroll Office applies. However, if the employee chooses the Overtime Leave option, his or her supervisor will complete the Overtime Leave Form for the overtime hours worked, sign the form and submit it to Human Resources. The form must include the information used by the supervisor to calculate the Overtime Leave hours earned (essentially, one and one-half times the number of hours actually worked in excess of 40 in the workweek.)

The following stipulations and limitations apply to this Overtime Leave provision:

- All overtime must always be authorized in advance by the supervisor or reviewer.
- The decision regarding whether to offer this option to an employee is at the discretion and initiation of the department and/or supervisor.
- Once a department offers the Overtime Leave option to one employee, it must offer the option to all qualified employees in the department.
- This option is available only to full-time non-exempt classified employees. Wage employees never qualify for paid leave and must be paid cash for any and all overtime hours worked.
- This option does not apply to exempt employees.
- If an employee chooses the Overtime Leave option, that choice will be confirmed in writing by the supervisor in a memo to the employee with the policy attached.
- Once an employee chooses the overtime leave option, he or she will be paid in leave for the next 40 consecutive overtime hours worked, thereby accumulating the maximum limit of 60 Overtime Leave hours. No employee may accumulate more than 60 hours of Overtime Leave. When the employee accumulates the maximum amount of hours, he or she must revert to payment for overtime hours. The supervisor is responsible for making certain that the employee does not exceed the maximum of 60 hours of Overtime Leave. Employees whose overtime leave hours have reached the 60 hour limit must be compensated with time and one-half overtime pay for additional overtime hours worked until the overtime leave balance has been reduced through the use of leave or the payment of leave hours.
- An employee who separates from the university with an overtime leave balance will be reimbursed for that leave at the hourly rate being earned at the time of separation from the university OR the employee's average hourly pay rate over the last 3 continuous years of employment, whichever is higher.
- An employee who is transferred, promoted, or demoted to another non-exempt classified position at JMU will retain any Overtime Leave accrued.
- An employee who is transferred, promoted, or demoted to an exempt position at JMU will be compensated for the accumulated Overtime Leave at the hourly rate being earned at the time of leaving the non-exempt position OR the employee's average hourly pay rate over the last 3 continuous years of employment, whichever is higher.
- Overtime Leave may not be used in leave sharing.

## **7. RESPONSIBILITIES**

Hiring supervisors must inform all new employees of their exempt or non-exempt status. Human Resources is available to assist with this function.

It is the responsibility of supervisors to ensure that hours worked and leave records are maintained on all non-exempt employees and are accurately reported to Human Resources or Payroll Services.

Questions related to the application of this policy should be directed to the appropriate supervisor or Human Resources.

Supervisors in departments choosing to use the Overtime Leave option are responsible for completing the Overtime Leave form and ensuring that no employee accumulates more than 60 hours of Overtime Leave.

## **8. SANCTIONS**

Sanctions will be commensurate with the severity and/or frequency of the offense and may include termination of employment.

## **9. EXCLUSIONS**

Employees whose positions are classified as 'exempt' are not eligible to receive overtime pay or overtime leave.

## **10. INTERPRETATION**

The authority to interpret this policy rests with the president, and is generally delegated to the director of human resources.

Previous version: December 2011  
Approved by the President: January 2004