

## TRS Policy

## Overtime and Compensatory Time

### Purpose

To ensure employees are compensated in compliance with federal and state laws for all work performed.

### Value

This policy ties to TRS' commitment to its values, including ethics and excellence.

### Reference

- Texas Government Code Chapter 659, Subchapter B. Salary Amounts; Overtime and Compensatory Time.
- Fair Labor Standards Act of 1938 29 U.S.C. § 201 et seq.
- 29 C.F.R. § 541.100 et seq.

### Applies To

All Teacher Retirement System (TRS) employees

### Definitions

**Standard work week:** The standard work week for TRS begins Monday at 12:01 a.m. and ends the following Sunday at midnight.

**Overtime:** Actual time worked by a non-exempt employee in excess of 40 hours in a standard work week.

**Exempt:** Designation of an employee who is not subject to the overtime provisions of the FLSA and not eligible for overtime compensation.

**Non-exempt:** Designation of an employee who is subject to the FLSA overtime provisions and eligible for overtime compensation.

**FLSA compensatory time:** Time off with pay earned by a non-exempt employee for overtime; granted at the rate of one and one-half hours off for each hour of overtime.

**State compensatory time:** Time off with pay authorized by the state at a rate of one hour off for each hour worked; earned by exempt and non-exempt employees under certain circumstances to which FLSA does not apply. State compensatory time will expire after 12 months.

## General Statement

TRS provides FLSA (Fair Labor Standards Act) compensatory time or pay to a non-exempt employee for overtime. State compensatory time is provided to a non-exempt or exempt employee who has worked less than 40 hours but whose combination of time worked, and paid time off exceeds 40 hours in a standard work week. An exempt, part-time employee is provided state compensatory time when their combination of time worked and paid time off during the standard work week exceeds the number of hours they are designated to work. State compensatory time is also provided to an employee who works on certain holidays.

## Approval to Work Overtime and Compensatory Time

Managers are encouraged to minimize the amount of overtime or state compensatory time accrued by their employees.

Employees are required to have approval from their manager before working any overtime or state compensatory time, and managers should approve such work only when there is a business need for the employee to work extra hours. A business need that justifies the accrual of overtime or state compensatory time may include situations where there is a need for a significant amount of extra time to work on a special project or manage an unexpected event that disturbs normal business operations.

If there is a need for an employee to earn more than 40 hours of overtime or state compensatory time a month, managers will need to work through their chain of command to obtain approval.

Failure to obtain approval before accruing overtime or state compensatory time may result in corrective action up to, and including, termination.

## FLSA Designation

Based upon the FLSA regulations and definitions and the responsibilities of the employee, TRS designates each employee as:

- non-exempt and subject to the FLSA; or
- exempt as an executive, professional, computer, or administrative employee and not subject to the FLSA.

## Non-Exempt Employees

### Overtime

TRS provides FLSA compensatory time to non-exempt employees who work overtime. FLSA compensatory time is earned at a rate of one and one-half times an employee's regular rate of pay for each hour of overtime worked.

## State Compensatory Time

When a non-exempt employee has worked less than 40 hours in a standard work week but his or her combination of time worked and paid time off exceeds 40 hours in that week, the employee is credited with state compensatory time (hour for hour) for the time in excess of 40 hours.

For example, if a non-exempt employee works a total of 36 hours Monday through Thursday, and there is an agency holiday on Friday for 8 hours, that employee would account for 44 hours on their weekly time sheet. Since actual time worked is less than 40 hours, the employee would not be entitled to FLSA compensatory time. Instead, the employee would accrue 4 hours of state compensatory time.

## Exempt Employees

### Overtime

Exempt employees are not eligible for FLSA compensatory time.

### State Compensatory Time

An exempt employee may accrue state compensatory time (hour for hour) when either the actual number of hours the employee has worked or the employee's combination of time worked and paid time off exceeds 40 hours in a standard work week.

## Use and Payout Requirements

### Use of FLSA Compensatory Time

There is no time limit for taking accrued FLSA compensatory time. However, an employee who requests time off may be required to exhaust FLSA compensatory time balances before using annual leave.

Employees who are covered by the FLSA may accumulate FLSA overtime credit of not more than 240 hours.

### Payment for FLSA Compensatory Time

TRS is required to pay employees for overtime earned over and above the amount of FLSA compensatory time they can accumulate. The rate of pay is equal to one and one-half times the employee's regular rate of pay.

TRS may elect to pay employees for overtime earned that is less than the amount of FLSA compensatory time they can accumulate with approval from the Executive Director (or designee). This may occur when employees are subject to mandatory overtime work, or demonstration of outstanding performance on a project. Classification and funding will be considered. A request for payment must be initiated by the employee's supervisor and submitted through the chain-of-management to the chief financial officer (or designee) and

the executive director (or designee) for approval, with notice to the Payroll Department. The request must be in writing and include a justification for the payment.

TRS will pay an employee for any unused FLSA compensatory time at the time of separation from employment. This time is paid at the rate of one and a half times the final regular rate of pay received by the employee.

An employee who separates employment from TRS may be permitted to use FLSA compensatory time to extend their separation date until the last day of the month they are separating if approved by their manager, division chief, Organizational Excellence, and executive director (or designee), with notice to the Payroll Department. The position held by the employee may not be filled during this time; however, the recruiting process may proceed at the discretion of Budget & Financial Analysis.

### Use or Payout of State Compensatory Time

State compensatory time expires 12 months after it is earned. TRS will make every effort to approve an employee's use of state compensatory time before it expires, subject to business needs. Management will use reasonable efforts to grant the employee's request to use state compensatory time or provide the employee with an alternate date.

As a practice, state compensatory time will not be paid out to employees during employment or at separation of employment, except as described in this section. Employees are encouraged to use their compensatory time, in consultation with their manager.

In limited circumstances, on an annual basis or at an employee's separation, the Executive Director (or designee) may authorize payment of up to 120 hours of unused state compensatory time for outstanding performance on a special project, or management of an unexpected event that disturbs normal business operations, as funding allows. A request for payment must be initiated by the employee's supervisor and submitted through the chain-of-management to the Chief Financial Officer (or designee) and the Executive Director (or designee) for preapproval, with notice to the Payroll Department. The request must be in writing and include a justification for the payment. The requesting employee's classification and division will also be considered.


A separating employee may request to use accrued state compensatory time to extend their separation date until the last day of the month they are separating. The request must be in writing and include a justification for the extended termination date or payment. The request must be approved by their manager, division chief, Organizational Excellence, and the Executive Director (or designee), with a notice to the Payroll Department. The position held by the employee may not be filled during this time; however, the recruiting process may proceed at the discretion of Budget & Financial Analysis.

## Violations

Violation of this policy may be grounds for corrective action, up to and including immediate termination of employment.

## Cross Reference/Related Documents

- Dual Employment Policy
- Leave Policy

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*This policy does not constitute a contract, a promise or guarantee of employment, or a guarantee of access to TRS premises or information resources, as applicable, and may be modified, superseded, or eliminated by TRS without notice to the employee.*