



Guidelines for Handling and Processing Compensatory Time Off (CTO) for Non-Exempt Employees

Compensatory time off (CTO) is defined and will be handled as follows:

DEFINITIONS and USES

- *Compensatory Time Off (CTO)* refers to time off in lieu of monetary compensation for hours worked over 40 in a workweek for a non-exempt employee.
- *Non-exempt* employees are those eligible for overtime compensation per the federal Fair Labor Standards Act (FLSA). *Exempt* employees are not covered by the overtime provisions of the FLSA and are not eligible for overtime compensation.
- *Job type* refers to an employee's job category—classified, non-classified, faculty, FEAP. Job type does not determine exemption status; the requirements of the FLSA do. Exemption status will be determined by the Classification and Compensation unit of the Division of Human Resources, based on the requirements of the FLSA.
- This guideline applies to those employees who are non-exempt classified, nonclassified or faculty equivalent/academic professional (FEAP) in their primary assignments. It does not apply to those whose primary assignments are faculty.
- All non-exempt employees are hourly employees; all hourly employees are non-exempt.
- An assignment that is "typically" exempt when established and paid at 1.0 FTE may become non-exempt/hourly if its FTE is set at less than 1.0 FTE.
- All hours worked by a non-exempt/hourly employee up through 40 in an established University workweek will be paid at the employee's hourly rate.
- Monetary compensation is the preferred and default method for compensating non-exempt employees for time worked in excess of their schedules beyond 40 hours in a workweek; but manager/supervisors are permitted to offer time off (CTO) instead, per the guidance of their administration.
- Offering time off (CTO) in lieu of monetary compensation is strictly a management option and cannot be demanded by an employee. Nor may a supervisor require an employee to accept CTO if that employee would prefer monetary compensation.
- For hours worked beyond 40 in a workweek, CTO is awarded at time-and-one-half, or 1.5 times all actual hours over 40 worked.
- Employees must receive authorization from their supervisors/supervisory designees in advance prior to working hours beyond those scheduled or on University-observed holidays or during inclement weather/emergency closures.
- There must be a signed written agreement between the employee and the supervisor before CTO may be awarded in lieu of monetary compensation.
- Fulltime and part-time regular non-exempt employees, as applicable and appropriate, may be eligible to earn CTO.
- Non-exempt employees with secondary assignments are not eligible to earn CTO in their primary assignments and will be paid at the overtime rate for the assignment in which working when the overtime is earned.
- Employees in temporary, casual or seasonal assignments, whether these assignments are primary or secondary, may not be compensated with CTO; they must be paid for all hours worked.
- "CTO balance" refers to the total hours of CTO an employee has earned, not on actual hours worked; thus an employee who has actually worked 100 CTO hours would have a CTO balance of 150 hours (100 hours X 1.5=150).
- At such time as an employee reaches a CTO balance of 240 hours or more, the amount in excess of 240 hours must be paid out [see "Payouts" information following].
- The "banking" of CTO for non-exempt employees is limited. Any CTO hours earned must be used by August 15 of each year or it will be paid out to the employee [see "Payouts" section following].
- All non-exempt employees are limited to accruing 240 hours of CTO.
[See also the "Handling and Processing Compensation for Working a Holiday" guideline for more information.]

PAYOUTS

- An employee moving from non-exempt to exempt status must be paid for any CTO balances by the work unit where the employee earned the CTO.
- No employee moving from non-exempt to exempt status may be permitted to "carry over" a CTO balance to his/her new exempt position.
- Payout must be initiated at such time as the exemption-change status is known and/or communicated to the appropriate department supervisors, managers and/or EBO representatives.
- Payout will be at the appropriate rate the employee was earning in the NON-EXEMPT position s/he is leaving.
- A non-exempt employee moving from one non-exempt position to another non-exempt position must be paid out for any accrued CTO by the department/college/unit losing that person, except when the employee is under the same EBO or financial unit. In this latter case, it will be the decision of the EBO/financial unit whether to pay out or to allow the employee to retain the CTO balance.

- At such time as an employee reaches a CTO balance of 240 hours or more, the amount in excess of 240 hours must be paid out within the next pay cycle.
- The CTO balance on record for any non-exempt employee as of August 15 will be paid out at the employee's CURRENT regular rate of pay on the next pay cycle, on or about August 31.
- The full August 31 payout is firm for all CTO hours earned up through August 15, even if earned on August 15. September 1 starts a new CTO earnings year, and no rollovers from the previous CTO year will be permitted.

WRITTEN AGREEMENT

- No non-exempt employee is to work beyond his/her scheduled/assigned hours without the authorization of his/her supervisor or designated manager.
- Non-exempt employees and their supervisors must have a written agreement (attached) signed and in place PRIOR TO the employee's being permitted to earn CTO.
- Non-exempt employees may change their agreements (that is, for monetary compensation or CTO) on a monthly basis by completing a new agreement and submitting it to their EBO. The change will take place on the first Sunday of the month following the date the agreement is signed. For example, a form completed and signed on May 12, 2011 would be effective the first Sunday in June (June 5, 2011).
- A non-exempt employee must elect either one option or the other in full; that is, monetary compensation or CTO. Employees are not permitted to "split" hours worked in excess of 37.5 in a workweek between CTO and monetary compensation. Each election will stand for the full calendar quarter for which the election was made.

SUPERVISOR'S/MANAGER'S RESPONSIBILITY

The employee's supervisor is responsible for verifying and monitoring an employee's accumulation and usage of CTO to ensure compliance with University policy. The employee's supervisor is responsible for ensuring that the employee is compensated appropriately for working hours in excess of 37.5 in a given workweek.

EBO'S RESPONSIBILITY

EBOs will:

- Maintain copies of their employees' written agreements.
- Key in any changes to written agreements prior to the first Sunday of each month.
- Monitor the earning and use of CTO by their employees.
- Ensure payout is made to any employee who has reached a CTO balance of 240 hours.
- Ensure that employees moving from non-exempt to exempt status have any CTO balances paid out appropriately at the rate the employee was earning BEFORE moving to exempt status.
- Ensure appropriate payout of any CTO to a terminating non-exempt employee.

FURTHER INFORMATION OR ASSISTANCE

For issues not specifically addressed or questions not answered in this document, please contact the Division of Human Resources' Employee Relations unit.

REFERENCES/AUTHORITIES

Federal Fair Labor Standards Act (FLSA) 29 U.S.C. §207(o), West Virginia Code § 18B-7-11, the Higher Education Policy Commission's Series 8 legislative rule and WVU Policy HR-6 and its accompanying procedure.

Examples of Calculations:

1) Non-exempt, benefits-eligible classified employee, 1.0 FTE and 12-month assignment; hourly rate of \$10.00; employee wants/agrees to CTO:								
Workweek: 37.5 hours	Sun	Mon	Tue	Wed	Thu	Fri	Sat	
Worked:		7.5	7.5	7.5	7.5	7.5	10	=47.5 hours
Paid Regular:								Amount:
Straight time (employee paid for all hours up to 40):	40 hours X \$10.00→							\$400.00
Elects CTO (all hours over 40):	7.5 hours X 1.5→							11.25 hours
2) Non-exempt, benefits-eligible classified employee, .60 FTE and 12-month assignment, hourly rate of \$12.00; employee wants/agrees to CTO:								
Workweek: 22.5 hours	Sun	Mon	Tue	Wed	Thu	Fri	Sat	
Worked:	0	4.5	4.5	4.5	4.5	10	0	=28 hours
Paid Regular:								Amount:
Straight time (all hours up to 40):	28 hours X \$12.00→							\$436.00
CTO (all hours over 40):	-0-							-0-
3) Non-exempt, benefits-eligible 1.0 FTE 12-month classified employee, hourly rate of pay \$15.00; employee wants/agrees to CTO:								
Workweek: 37.5 hours	Sun	Mon	Tue	Wed	Thu	Fri	Sat	
Worked:	10	7.5	7.5	7.5	8.5	8	5	=54 hours
Paid Regular:								Amount:
Straight time (all hours up to 40):	40 hours X \$15.00→							\$600.00
Elects CTO (all hours over 40):	14 hours X 1.5→							21 hours
4) Non-exempt, benefits-eligible 1.0 FTE 12-month classified employee, hourly rate of pay \$15.00, regular rate of pay* \$16.00; employee does not want/agree to CTO:								
Workweek: 37.5 hours	Sun	Mon	Tue	Wed	Thu	Fri	Sat	
Worked:	10	7.5	7.5	7.5	8.5	8	5	=54 hours
Paid Regular:								Amount:
Straight time (all hours up to 40):	40 X \$15.00→							\$600.00
Overtime (all hours over 40):	1.5 X \$16.00= \$24.00 X 14→							\$336.00

**Regular rate of pay is the employee's hourly rate plus the hourly value of any longevity payment the employee received in July of the current fiscal year.*

