

**Southwestern University**  
**HR Policy Q & A: Timekeeping**  
**August, 2005**

Three questions:

1. How long has it been since you reviewed the University's policy on timekeeping?
2. When was the last time you really took the time to fully review your employee's time sheets when they submitted them to you for your approval?
3. How up-to-date are you on the Fair Labor Standards Act?

If your answers to the preceding questions are:

1. I vaguely remember the policy from a supervisory training session years ago.
2. I trust that my employees reflect their time accurately, so I don't spend much time reviewing the specifics – I just sign them.
3. The what?

...then, this HR Policy Q&A is for you!

Time sheets are the University's way of documenting the hours worked for all hourly-paid (non-exempt) employees. The University also has a time sheet policy for monthly-paid (exempt) employees, though it is only for reflecting the usage of sick, vacation, holiday, or other types of leave. Both types of time sheets serve as our official recordkeeping documentation as required by the Fair Labor Standards Act. In other words, it's really important.

Below are some frequently asked questions about the Fair Labor Standards Act and the process for completing time sheets which I hope will provide clarification for you.

As always, please contact the Human Resources department if you have questions about any of our policies and practices.

If you want to read more about the Fair Labor Standards Act, the internet link is <http://www.dol.gov/esa/whd/flsa/>

**Q:** What is the Fair Labor Standards Act (FLSA)?

**A:** The FLSA is the federal wage and hour law which governs the manner in which employees are paid. It provides the definitions of "hours worked" (including travel time),

overtime calculations, and sets out the recordkeeping requirements for employers. It also dictates the requirements for “non-exempt” and “exempt” positions. (FLSA)

**Q:** What is a “non-exempt” position under FLSA?

**A:** A non-exempt position is one which is hourly paid and receives overtime pay of time and one-half for any hours worked over 40 in one work week. Typical non-exempt positions include: Secretaries, Custodians, Police Officers, Accounting Clerks, Switchboard Operators, Receptionists, Groundskeepers, etc. (FLSA; Staff Handbook, Employment Categories, page 27)

**Q:** What is an “exempt” position under FLSA?

**A:** An exempt position is one which is salaried, does not receive overtime pay, and which meets both the salary test and duties test for exemption under FLSA. Typical exempt positions include: Accounting Manager, Professor, Director of Communications, Assistant Director of Financial Aid, Psychologist/Counselor, Student Development Coordinator, Associate Vice President for Human Resources, President, Academic Services Coordinator, etc. (FLSA; Staff Handbook, Employment Categories, page 28)

**Q:** What is the “salary test” for exemption under FLSA?

**A:** The current level of salary that an employee must be paid to be considered an exempt employee is \$455 per week. For a regular 12-month position, this amounts to a salary of \$23,660 per year. (FLSA)

**Q:** So, if I have an employee who makes at least \$23,660 per year, then that makes that person an exempt employee?

**A:** No. To be classified as an exempt employee, both the salary test and the duties test must be passed. (FLSA)

**Q:** What is the “duties test” for exemption under FLSA?

**A:** Actually, there are several. The three most common ones are the Executive, Professional, and Administrative. Under each of these categories, there are specific duty requirements that must be met to qualify for exemption. Briefly, these are as follows:

- **Executive:** Primary duties must include managing the enterprise, directing other employee’s work, and having the authority to hire and fire. Typical executive positions include: President, Vice President for Fiscal Affairs, Associate Vice President for ITS, Director of Physical Plant, Provost, etc.
- **Professional:** Primary duties must include performing work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction. Typical professional positions include: Professor, Accountant, Psychologist, Physician, Attorney, Architect, etc.
- **Administrative:** Primary duties must include performing office/non-manual work directly related to the management and general business operations of the employer or the employer’s customer and must exercise discretion and independent judgment in matters of significance. Typical administrative positions

include: Financial Aid Counselor, Assistant Director of Admissions, Assistant Director of Alumni Relations, Assistant Registrar, Internship Coordinator, Grant Writer, Editorial Coordinator, etc.

**Q:** Does the FLSA require that an employer provide holidays, sick leave, and/or vacation leave accruals?

**A:** No. There are no federal laws that require such leave policies; however, if an employer has policies for accrual and usage of such types of leave, the employer must comply with those policies. (FLSA)

**Q:** Does the FLSA require break times or meal times?

**A:** No. There are no federal laws that require such break times; however, there are federal guidelines that many employers follow which suggest a 15 minute break for each four hours worked and a meal break of 30 minutes or more for each six hours worked. (FLSA and related federal guidelines)

**Q:** Does the FLSA require a 40-hour work week?

**A:** No. The FLSA does require that employers pay a non-exempt employee overtime pay of time and one-half for any hours worked over 40 in one work week. (FLSA)

**Q:** What is Southwestern's official work week?

**A:** Our work week begins at 12:01 a.m. on Sunday and continues through midnight on Saturday. (Staff Handbook, Hours of Work and Work Schedules, page 28-29)

**Q:** Since non-exempt (hourly-paid) employees are paid on a bi-weekly basis, is it o.k. for them to "trade" hours worked in one week to the second week?

**A:** No. First and foremost, it is important to remember that time sheets should be an accurate representation of the actual hours worked by the employee each day. If a full-time, regular employee with a 40-hour per week schedule works 42 hours in one week and 38 hours in the second week, he/she cannot apply the two hours from the first week to the second week to reflect 40 hours worked in each week. As a private employer, Southwestern cannot provide a compensatory time off policy like public employers (i.e. State of Texas) do. The employee would be paid two hours of overtime in the first week (assuming he/she did not take two or more hours of vacation or sick time during that week, in which case he/she would receive "straight" pay for those two hours), and he/she would need to take two hours of vacation time (or sick time, if appropriate) to have the second week total 40 hours. (FLSA; Staff Handbook, Timekeeping, page 35)

**Q:** This is a follow-up question to the previous question. Why would the employee only receive "straight" pay for the two hours worked in the first week if they had taken two or more hours of sick or vacation time during that week?

**A:** The employee would only receive "straight" pay for those two hours because sick and vacation time are not considered "actual work hours." Only hours actually worked (or "suffered") are counted when determining whether the overtime pay rate will be applied. However, even if the overtime rate is not applied to those two hours, they must be paid at least at the regular hourly rate. (FLSA; Staff Handbook, Overtime, page 36)

**Q:** Do exempt employees have to keep track of the number of hours they work each day/week?

**A:** No. Exempt employees are paid a salary for performing their job. Because Southwestern has policies for accrual and usage of sick leave and vacation leave, exempt employees are required to complete monthly time sheets to reflect any sick, vacation, holiday, or other types of leave taken during the month. (Staff Handbook, Timekeeping, Exempt, page 35)

**Q:** Several of my non-exempt employees are participating in the Flex Time program. Does working a condensed work week (i.e. four 10-hour days) or some other variation of the “standard” work schedule change the requirements under the FLSA?

**A:** No. The same rules apply. (FLSA)

**Q:** What details do my non-exempt employees have to record on their time sheets?

**A:** Southwestern’s Timekeeping Policy states, in part, “This includes the time you begin and end your work, and the beginning and ending time of each meal period, according to the University’s specific procedures. You should record the beginning and ending time or departure from work for personal reasons.” Each time sheet should always include the employee’s full name (no nick names or abbreviations), the pay period ending date, and both the employee’s and the supervisor’s signature. (FLSA; Staff Handbook, Timekeeping, page 35)

**Q:** If an employee takes a full or partial day off due to illness or vacation or holiday, where should those hours be reflected?

**A:** The time sheet has a column specifically designated for hours taken for sick, vacation, or holiday and the hours should be reflected there. (Staff Handbook, Timekeeping, page 35)

**Q:** If an employee has jury duty, where should those hours be reflected?

**A:** Jury duty hours should be reflected in a separate column (it is permissible to use the column designated for sick/vacation/holiday leave) with a note specifying those hours. Many times, jury duty only takes a portion of a regular work day. If an employee reports to work for two hours, leaves for jury duty for two hours, and then reports back to work after lunch for the rest of the work day, the time sheet should record the following: Start 8:00 a.m.; Stop 10:00 a.m. Start: 1:00 p.m.; Stop 5:00 p.m. And, in a separate column, reflect “2 hours jury duty.” The employee will receive 8 hours of pay for that day (six hours actually worked or “suffered” and two hours of jury duty) since the University pays the employee their regular rate of pay for up to 30 days of jury duty service. (Staff Handbook, Timekeeping, page 35 and Jury and Witness Duty Leave, page 47)

**Q:** Should an employee include their travel time to and from jury duty as time to be paid?

**A:** Yes. (FLSA, Portal to Portal Act)

**Q:** If I notice an error on my employee's time sheet – for example, they fail to reflect sick leave on a day when they were out ill – can I simply change the time sheet, initial the change, and submit it to payroll?

**A:** No. The employee also needs to initial the change. If the employee is not present when you discover the error, and time sheets are due to the Payroll department, you may submit the revised time sheet without the employee's initials, but then you must re-submit another revised time sheet with the employee's initials on it. (FLSA; Staff Handbook, Timekeeping, page 35)

**Q:** If a non-exempt employee arrives 15 minutes early to work and gets a cup of coffee and reads the newspaper, should he/she reflect that time as time worked?

**A:** No. (FLSA)

**Q:** This is a follow-up to the previous question. If that same employee, while enjoying his/her coffee and paper, happens to turn on his/her computer, check e-mail messages, check voice-mail messages, and file away a few invoices, should that time be reflected as work time?

**A:** Yes. Even if all he/she does is simply answer the phone and it is a work-related call, that entire time is considered to be work time. The same holds true for lunch breaks – which is why hourly-paid employees are encouraged to take their lunch breaks away from their work area. (FLSA)

**Q:** If a non-exempt employee does not secure prior approval for overtime, but reflects those hours as overtime on his/her time sheet, is the University obligated to pay the employee for that time?

**A:** Yes. Even without prior approval, the FLSA requires an employer to pay for all hours “suffered” by the employee. It is the supervisor's responsibility to make the employee aware of the University's policy that all overtime be pre-approved. If the employee continues to work overtime without the supervisor's approval, then the supervisor should begin a Performance Management process (disciplinary process) with that employee. The Human Resources department can provide assistance to the supervisor with this process. (FLSA; Staff Handbook, Overtime, page 36)

**Q:** If a non-exempt employee is required to travel on a non-work day (i.e. a Saturday), how should he/she reflect his/her time?

**A:** The FLSA stipulates that when a non-exempt employee travels on a regular non-working day, he/she will only be compensated for the hours traveled during his/her normal workday schedule (i.e. 8 hours, 8:00 a.m. – 5:00 p.m. with one hour lunch break). Remember, though, if the employee is performing work beyond those hours, all of those hours count as time worked. Also, if the employee is traveling by vehicle and he/she is the driver, then all of those hours are counted as time worked. If, however, the employee is merely a passenger in the car, he/she is only paid for his/her regular workday schedule. Confused yet? Welcome to wage & hour law! (FLSA)