

# Overtime Guidelines

The provisions of the Fair Labor Standards Act (FLSA) cover all VCU employees. The Act establishes rules for minimum wage, overtime pay, equal pay, child labor, and recordkeeping; and it defines exemptions from overtime pay regulations. The chart below shows generally how to determine a position's FLSA status. **Note:** For employees with multiple jobs, see the "Overload Job" section on the second page of these guidelines.

| Employee Class   | Pay Band | FLSA Status   | Determined By |
|--|----------|---|---------------|
| Classified (C1, C3, C5, and some LE)   | 1-3      | Non-exempt: does not meet the requirements of both the job duties and salary basis <a href="#">FLSA exemption tests</a> .   | HR            |
|  | 4-above  | Non-exempt: does not meet the requirements of both the job duties and salary basis <a href="#">FLSA exemption tests</a> .   |               |
| Classified (C2, C4, C6, and some LE)   | 4-above  | Exempt: must meet the requirements of both the job duties and salary basis <a href="#">FLSA exemption tests</a> .   | HR            |
| Hourly (H1)<br>Student Workers (SW)<br>Work Study (WS)   | Any      | Non-exempt: does not meet the requirements of both the job duties and salary basis <a href="#">FLSA exemption tests</a> . (Except for teachers, employees practicing law or medicine, and outside sales employees which do not have to meet the salary basis test).   | HR            |
| Faculty<br>Teaching/Research (F1 – F6)<br>Administrative (A1 – A6)<br>Professional (P1 – P6)<br>Clinical MD (M1 – M6)<br>Clinical non-MD (O1 – O2) | N/A      | Exempt: must meet both job duties and salary basis <a href="#">FLSA exemption tests</a> (except for teachers, employees practicing law or medicine, and outside sales employees which do not have to meet the salary basis test).   | VP            |
| Adjunct (AJ), Adjunct Fac Credit<br>Instructor AJ001, Pos #J00001  | N/A      | Exempt: must meet job duties <a href="#">FLSA exemption tests</a> . When primary job is teaching, employees are not required to meet the salary basis exemption test.   | VP            |
| Adjunct (AJ), Adjunct Faculty Other<br>AJ002, Pos #J00002  | N/A      | Exempt: must meet both job duties and salary basis <a href="#">FLSA exemption tests</a> (except for teachers, employees practicing law or medicine, and outside sales employees who do not have to meet the salary basis test).<br><br>Note: New adjunct faculty proposed as non-teaching will need to be hired as other employee types (classified or hourly) if they do not meet the job duties and salary basis <a href="#">FLSA exemption tests</a> described below.<br><br>Questions? Contact your <a href="#">Human Resource Generalist</a> . | VP            |
| Graduate Assistants (GA & G9)<br>Post-Doctorals (PD)   | N/A      | Exempt: Graduate Assistants and Postdocs are considered exempt by FLSA.   | N/A           |

An employee's specific job duties **and** salary must meet **both** of the following criteria to be considered exempt:

- **Job Duties Exemption Test:** An employee's job duties must meet one of the job duties [FLSA exemption tests](#) for executive, administrative, professional, and computer employees. Job titles do not determine exemption status.
- **Salary Basis Exemption Test:** Employees must be paid on a salary basis of not less than \$455 each week, regardless of whether their employment status is full-time or part-time. This salary requirement does not apply to teachers, employees practicing law or medicine, and outside sales employees.

**Exempt** employees are not required to be paid overtime or to accrue compensatory leave. Managers should limit approval of additional straight time (regular rate) payment or compensatory leave accrual for exempt employees to the rare instances that require an excessive amount of additional work time. Exempt employees may occasionally need to work overtime without receiving additional pay or accruing compensatory leave.

**Non-exempt** employees must be paid time and one-half for all hours worked more than 40 in a workweek (from 12:01 a.m. Sunday through midnight on the following Saturday). Leave time and holidays do not count as time worked. Compensatory leave may be accrued only if the employee is declared essential and is required to work during authorized University closings (e.g., inclement weather). [At management’s discretion and with the employee’s agreement, overtime leave may be granted in lieu of overtime pay - see the [“Overtime Leave Option for Non-Exempt Classified Employees.”](#)]

- A non-exempt employee may not elect to waive payment of overtime or receive compensatory leave in place of payment.
- Although the manager should approve overtime in advance, any verifiable hours worked beyond 40 must be paid at time and one-half.
- Managers may adjust an employee’s schedule within a workweek to avoid or minimize payments. For example, if an employee works an extra four hours on Monday, the manager may reduce the employee’s work schedule on Friday by four hours so that the employee does not work more than 40 hours during that workweek. Each workweek stands alone in calculating regular and overtime hours worked.

**Overtime compensation** is defined as time-and-one-half *payment* or time-and-one-half *leave accrual* for all hours worked beyond 40 in a workweek.

- To receive overtime compensation, an employee must be required and authorized by the manager to work additional hours – **employees may not approve or authorize their own additional hours.**
- University business operating procedures prohibit tracking compensatory time “off the record.”

**Overload Job** hours worked by classified, student, or hourly employees must be reported in accordance with current payroll and FLSA procedures. Overtime payment is typically dependent on the FLSA status of the primary (first) job based on the chart below:

| PRIMARY JOB<br>FLSA STATUS | OVERLOAD JOB<br>FLSA STATUS | 1½ OVERTIME PAYMENT<br>for hours beyond 40 in a<br>workweek |
|----------------------------|-----------------------------|---|
| EXEMPT                     | EXEMPT                      | NO  |
| EXEMPT                     | NON-EXEMPT                  | NO  |
| NON-EXEMPT                 | EXEMPT                      | YES   |
| NON-EXEMPT                 | NON-EXEMPT                  | YES   |

All hours that an employee works in excess of 40 in a workweek, in combination with his/her primary (first) and all overload jobs, will be paid in accordance with FLSA procedures. If you have questions regarding individual situations, contact VCU Payroll Services at [payroll@vcu.edu](mailto:payroll@vcu.edu) or your [HR Generalist](#).

**Note:** Several pay and administrative issues can occur when both VCU and the VCU Health System employ the same individual. *Before hiring a current VCU Health System employee to work for VCU,* contact your [HR Generalist](#) for assistance.

**For information on the FLSA status of specific positions:**

- Employees
  - To determine the FLSA status of your particular position, see your supervisor or your department's Personnel Administrator.
- Personnel Administrators
  - You have access to the Employee List report on the Web Report Studio (accessed from the HR Banner webpage <http://www.hr.vcu.edu/banner/>) that shows EClass providing FLSA status on all of your individual department employees.
  - You also can review the FLSA status of individual classified employees by their EClass Title in PEAEMPL or NBAJOBS in Banner or in NBAPOSN (a checkmark beside "Exempt Indicator" indicates exempt FLSA status; no checkmark indicates non-exempt status).