# 1570.220 EXEMPT OVERTIME-ELIGIBLE PROCEDURE

Federal and state laws set the rules and regulations for overtime.

## A. DEFINITIONS

### 1. **Exempt from overtime employees** considered to be "executive, administrative, professional and outside sales employees," some computer employees, and some employees who are paid ***above*** the Washington State Department of Labor and Industries minimum wage threshold of two times the state minimum wage per week are, in most cases, exempt from overtime pay. However, employees may be exempt from overtime on a case-by-case basis, depending on their job duties. Employees whose primary duty is teaching, instructing, or lecturing to impart knowledge are not eligible for overtime.

### 2. **Overtime-eligible exempt** **employees** considered to be "executive, administrative, professional and outside sales employees," some computer employees, and some employees who are paid ***below*** the Washington State Department of Labor and Industries minimum wage threshold of two times the state minimum wage per week are, in most cases, eligible for overtime pay.

### 3. **Overtime** is defined as time that an overtime-eligible employee works in excess of 40 hours per workweek (Sunday through Saturday).

### 4. **Overtime rate** is in accordance with the applicable wage and hour laws, the overtime rate will be one and one-half (1½) of an employee’s regular rate of pay (or compensatory time at time and a half) for all hours worked over 40 in a workweek. The regular rate of pay will not include any allowable exclusions.

### 5. **Work**, for overtime purposes, is the time actually spent performing the duties assigned in addition to time during which an employee is excused from work for holidays, sick leave, vacations or compensatory time.

### 6. **Work does not include**:

#### a. Shared leave;

#### b. Leave without pay; or

#### c. Additional compensation for time worked on a holiday.

## B. SALARY THRESHOLD

Since the state threshold that takes effect January 1, 2023, is higher than the federal threshold, employers in Washington state will need to follow the higher state threshold. This approach follows the principle of law that in the event of a conflict between state and federal law, the law more protective of the employee will apply. In order to be exempt from overtime, employees must also meet one of the “duties tests”.

This same threshold applies to part-time employees; it is not pro-rated for employees who are less than full-time.

Employees with a combination of FTE and salary that falls below the minimum salary per week will be converted to overtime eligible. The human resources office will track eligibility and notify affected employees as needed.

## C. REPORTING TIME

Overtime-eligible exempt employees will need to track the hours they work and submit a timesheet through ctcLink.

## D. OVERTIME ELIGIBILITY AND COMPENSATION

Overtime-eligible employees are eligible for overtime compensation under the following circumstances:

### Employees who have **prior** approval and work more than 40 hours in a workweek will be compensated at the overtime rate; employees must receive prior approval for each pay period in which overtime occurs.

### An employee whose workweek is less than 40 hours will be paid at their regular rate of pay for all work performed up to 40 hours in a workweek and paid at the overtime rate for authorized work of more than 40 hours in a workweek; and

### 3. When employees work on a holiday.

## E. GENERAL PROVISIONS

### 1. The college will determine whether work will be performed on regular work time or overtime, the number, the skills and abilities of the employees required to perform the work, and the duration of the work. The college will first attempt to meet its overtime requirements on a voluntary basis with qualified employees who are currently on duty. In the event there are not enough employees volunteering to work, the supervisor may require employees to work overtime.

### 2. If an employee was not offered overtime for which they were qualified, the employee will be offered the next available overtime opportunity for which they are qualified. Under no circumstances will an employee be compensated for overtime that was not worked. There will be no stacking of overtime.

3. Supervisors approving overtime requests are responsible for ensuring budgetary funds are available for each occurrence.

## F. COMPENSATORY TIME FOR OVERTIME-ELIGIBLE EMPLOYEES

### 1 Compensatory Time Eligibility

At the employee’s request and with the supervisor’s approval, compensatory time may be earned in lieu of cash. Compensatory time must be granted at the rate of one and one-half (1½) hours of compensatory time for each hour of overtime worked.

### 2. Maximum Compensatory Time

Employees may accumulate no more than 160 hours of compensatory time.

### Compensatory Time Use

Employees must use compensatory time prior to using vacation leave, unless this would result in the loss of their vacation leave or the employee is using vacation leave for Domestic Violence Leave. Compensatory time must be used and scheduled in the same manner as vacation leave. Employees may use compensatory time for leave as required by the Domestic Violence Leave Act, RCW 49.76. The college may schedule an employee to use their compensatory time with seven calendar days’ notice.

### 4. Compensatory Time Cash Out

All compensatory time must be used by June 30th of each year. If compensatory time balances are not scheduled to be used by the employee by April of each year, the supervisor will contact the employee to review their schedule. The employee’s compensatory time balance will be cashed out every June 30th or when the employee:

#### a. Leaves state service for any reason;

#### b. Transfers to a position in their institution with different funding sources; or

#### c. Transfers to another state agency or institution.

## G. MEAL AND BREAK PERIODS

Salaried overtime-eligible exempt employees receive a minimum of one (1) 30-minute unpaid meal period towards the middle of each work shift, no more than five hours after the beginning of the shift. Additionally, salaried overtime-eligible employees receive two (2) 15-minute paid rest periods for every four (4) hours worked. Meal and rest periods may not be used for late arrival or early departure from work and meal and rest periods will not be combined.

Approved by the president’s cabinet: 1/31/23

Last reviewed: 1/31/23

Procedure contact: Human Resources

Related policies and procedures and other resources

[FLSA and WMWA overtime eligibility and exemption](https://hr.uw.edu/comp/overtime-for-non-academic-staff/flsa-overtime-eligibility-and-exemption/) (from the University of Washington)