

<b>Policy title</b> Employee Classification Policy & Guidelines for Recording Work time for Compensation	<b>Category</b> Human Resources
<b>Owner</b> Human Resources	<b>Approved by</b> Ad Council

## Purpose of this policy

It is the intent of Nebraska Wesleyan University (NWU) to clarify the definitions of employment classifications so that employees understand their employment status and how compensated work time is addressed for each employment category. This policy sets forth the conditions for compensation for nonexempt and exempt employees under the Federal Fair Labor Standards Act (FLSA) with regard to various employment classifications and the considerations for minimum wage, recording hours worked, how to record various types of compensable time worked, overtime pay and overtime eligibility laws, including the exemptions from FLSA coverage.

## Policy statement

### Definitions

1. **Hours Worked.** All the time during which an employee is required to be on NWU's premises, on-duty, or at a prescribed workplace.
2. **Non-exempt.** Employees who are paid by the hour and are eligible for minimum wage and overtime compensation as defined by the Fair Labor Standard Act (FLSA) regulations. They are *not* exempt from the law's requirements concerning minimum wage and overtime.
3. **Overtime.** Time physically worked beyond the standard 40-hour weekly work period which is compensated monetarily at the rate of 1.5 times the hourly rate of pay for a non-exempt employee.
4. **Exempt.** Employees who are exempt from the minimum wage and overtime provisions of the FLSA regulations.
5. **Work Week.** NWU's standard workweek shall be from 12:00 a.m. Sunday through 11:59 p.m. Saturday.
6. **Pay Period.** NWU's pay periods for hourly-paid, non-exempt employees are set for two periods each month (semi-monthly):
  1. from the 1st through the 15th of each month
  2. from the 16th through the last calendar day of the month (ex. 31st)
7. **Overtime Pay Computation.** Overtime pay will be computed as actual hours physically worked in excess of 40 hours during a work week. In computing overtime, holiday hours and leave hours (ex. Vacation, Sick, Admin, Jury, Bereavement, Parental, Military leave) are not considered actual hours worked.

### Policy Statement

FLSA provides that all employees are to be considered non-exempt unless the position meets specific "duties tests" and "salaries tests". All NWU employee positions are designated as either nonexempt or exempt under state and federal wage and hour laws.

NWU compensates **non-exempt** employees for authorized, reasonable and necessary time that is required in accordance with FLSA regulations. Non-exempt employees must be paid at least the federal minimum wage for all hours worked and overtime pay for hours worked in excess of 40 in a single workweek. Overtime pay rate must be at least 1.5 times the employee's regular rate of pay. Paid leave, such as holiday, sick or vacation pay, does not apply toward work time or overtime. The workweek begins at 12:00 a.m. on Sunday morning and ends at 11:59 p.m. on Saturday night.

**Exempt** employees are paid a salary for work completed by the week and hold jobs that meet the standards and criteria established under the FLSA regulations enforced by the U.S. Department of Labor. Exemption from both minimum wage and overtime pay may occur when employees meet each of the following tests:

1. **Job duties test**—An employee's primary duty must be performing work that meets one of the following exemption categories: executive, administrative, professional, computer.
2. **Salary basis test**—The employee must be paid a fixed, predetermined salary that is not subject to reduction based on quality or number of hours worked.
3. **Salary level test**—The amount of salary paid to an employee must meet a minimum specified amount.

Position classification is ultimately determined by the office of Human Resources. Employment classifications do not guarantee employment for any specified period of time. The right to terminate the employment relationship at will at any time is retained by both the employee and NWU.

### **Various Types of Hours Worked**

To ensure that employees are paid for all hours worked, NWU requires non-exempt employees to accurately record their hours worked during each workday in the designated time-keeping software. Employees are required to submit their time records promptly following the close of the pay period so that their time records can be reviewed by their supervisor(s) before paychecks are processed for the pay period.

At no time may any employee perform off-the-clock work or otherwise alter, falsify or manipulate any aspect of their time-keeping records to inaccurately reflect or hide hours worked, meal periods taken, or time spent working during meal periods.

**"Hours worked"** is defined as "time an employee is subject to the control of an employer' or time in which an employee is required to be on NWU's premises, on-duty, or at a prescribed workplace.

Other specific instances that count as **"Hours worked"** include:

**Waiting Time** - Counts when an employee is engaged to wait (*Example: An Admissions Counselor is waiting for a potential recruit to show up for a discussion but is running late due to a prior meeting with a Coach that runs long, this is considered waiting time and would be compensable and required to be recorded in the time keeping system*).

**On-Call Time** - Employees may be put on notice that they will be required to report to work in their off hours, on short notice. If calls to perform work are so frequent or the readiness for work conditions are so restrictive that the employee is not free to use the intervening periods effectively for his or her own benefit, the time must be considered hours worked. (*Example: Physical Plant employees are asked to be on-call during winter weather so that they may receive instruction about time to come into work to shovel snow. Being given notice of a potential call will not be considered compensable on-call work time. Second example: If an employee were asked to be available for a specific amount of time which was outside of the standard shift, was asked to be able to report to work in less than 20 minutes, and that there was disciplinary action if they did not report to work would be considered compensable work time.*)

**Rest & Meal Periods** - Rest periods that are 20 minutes or less are paid for as working time. Meal periods that are 30 minutes or longer are typically unpaid, unless the employee is not completely relieved of all duties are also considered hours worked. (*Example: Working lunches are considered work time and will be compensable*). Rest periods and Meal periods are not allowed to be combined for one longer period of time that the employee is away from their work duties.

**Sleeping Time** - An employee who works for less than 24 hours in a shift and is allowed to sleep or engage in other personal activities when not busy during that shift, shall be compensated for all hours worked, but not spent sleeping. (*example: A Residential Education Coordinator (REC) is on-duty during a weekend shift requiring 3 sets of rounds in the residence halls checking on students, taking 1 hour for each round, each day. The REC is allowed to sleep during the weekend they are scheduled to be on duty. Time spent doing rounds is compensable, time spent sleeping, or not working (completing rounds) is not compensable.*

**Lectures, Meetings & Training** - Any events, meetings, and training are considered hours worked unless the event is outside of normal hours, is voluntary, is unrelated to the job, and does not require any concurrent work to be performed. (*Example: brown bag lunches and working lunches are compensable even if lunch is provided for the employee.*)

**Electronic communications** (Email, Voicemail, etc.) - All time spent by nonexempt employees using electronic communications for work purposes will be considered hours worked and will count toward overtime eligibility. To avoid incurring unnecessary expenses, electronic communications should not be used outside regularly scheduled work hours unless required preauthorized by a supervisor. This includes all types of work-related communication. (*Example: An employee receives a text message to check their email after their regularly scheduled shift, logs into email then needs to respond to the email. The time spent in email communication is compensable.*)

**Travel Time** – Employees in positions classified as nonexempt (overtime eligible) under the Fair Labor Standards Act may be eligible for compensation for the time they spend traveling. The compensation an employee receives depends on the kind of travel and whether the travel time takes place within normal work hours.

"Normal work hours," for the purposes of this policy, are defined as an employee's regularly scheduled work hours (e.g., 8:30 a.m. to 5:30 p.m.). This definition applies to normal workdays (Monday through Friday) and to weekends (Saturday and Sunday). Employees with variable work hours will have their normal work hours defined by human resources prior to travel, based on a review of time records over the previous month.

"Travel time" is defined according to the type of travel involved:

- **Travel for a one-day assignment in another city:** An employee who regularly works at a fixed location and is given a special one-day assignment in another city and returns home the same day will be paid for the time spent traveling to and from the other city, except for the time the employee would normally spend commuting to and from the regular worksite.
- **Travel during the workday:** Time spent by an employee traveling as part of his or her regular job duties, such as travel from jobsite to jobsite during the workday, is work time and will be compensable.
- **Travel away from home:** Travel that keeps an employee away from home overnight is travel away from home. Travel time that takes place within normal work hours, regardless of the day of the week, is treated as work hours. When an employee travels between time zones, the time zone associated with the point of departure should be used to determine whether the travel falls within normal work hours. (See "Waiting time, Rest and Meal periods and Sleeping Time" for other time recordable during travel.)
- **Time spent traveling from home to an airport terminal (or similar transportation like a train station):** Travel time to an airport (or similar transportation) is considered commute time and is not treated as hours worked. Time spent waiting at a terminal until arrival at the destination is compensable.
- **Travel time as the driver of an automobile:** All authorized travel time spent driving an automobile (as the driver, not as a passenger) is treated as work hours, regardless of whether the travel takes place within normal work hours or outside normal work hours.

If an employee requests a specific travel itinerary or mode of transportation that is different from the one authorized by the company, only the estimated travel time associated with the itinerary and mode of transportation that has been authorized will be eligible for compensation. (*Example*, if an employee drives a car as a matter of personal preference when an authorized flight or other travel mode is available, and the travel time by car would exceed that of the authorized mode, only the estimated travel time associated with the authorized mode will be compensated.)

- **Travel time as a passenger in an automobile** is not automatically treated as work hours. Travel as a passenger in an automobile with work being performed is compensable. Travel as a passenger in an automobile with no expectation of work and the employee is allowed to complete personal activities during the travel is not compensable.

## Calculating and Reporting Time

Employees are responsible for accurately tracking, calculating and reporting time on their time sheets in accordance with this policy. Meal periods should be deducted from all travel time.

## Overtime Approval

Supervisors are required to obtain approval from their divisional Vice President prior to the use of overtime. Employees who anticipate the need for overtime to complete work must notify their supervisors in advance and obtain approval prior to working hours that extend beyond their normal schedule. Approval is required for hours that will exceed the employee's budgeted and scheduled work hours in a workweek as well as all hours worked over 40 hours in a specific work week.

## Mandatory Overtime

During busy periods, the employer may require employees to work extended hours. Overtime is considered a condition of employment, and refusal to accept it when reasonable notice has been given is cause for discipline, up to and including termination.

## Consequences of Overuse of Overtime

Supervisors who authorize staff members to work overtime without prior approval their divisional Vice President will be subject to disciplinary action. Supervisors who continually rely on the use of overtime hours to complete work without it being deemed as extenuating circumstances by their divisional Vice President will be subject to disciplinary action.

## Consequences of Unauthorized Overtime

Employees who fail to obtain prior approval for working hours that extend beyond a their typically scheduled workweek will be subject to disciplinary action up to and including termination.

## Prohibited Use of Electronic Communications Devices

Nonexempt employees should not check, read, send or respond to work-related e-mails, voicemail or other messages outside their normal work schedules unless specifically authorized based on job duties or direction by management to do so.

## Enforcement

Nonexempt employees using electronic communications for work-related correspondence during unauthorized times may be subject to discipline for violating this policy. Supervisors requiring nonexempt employees to use electronic communications for work-related correspondence at unauthorized times are also subject to discipline up to and including termination.

## Recording Hours Worked

Employees are to record all hours worked in 15-minute increments. The time worked will be recorded on the employee's standard timesheet in Self-Service. As noted earlier, rest periods that are 20 minutes or less are paid for as working time and will not be recorded in Self-Service. Meal periods that are 30 minutes or longer are typically unpaid, unless the employee is not completely relieved of all duties are also considered hours worked. Meal periods will typically be required to be documented in Self-Service by the employee.

If an employee takes performs work (including emails, voicemails, phone calls, etc.) after their regularly scheduled shift, the employee should record the amount of time it takes in Self-Service. This amount of time will be logged as additional time worked for the amount of time spent working in 15-minute increments. The time worked will be recorded on the employee's standard timesheet in Self-Service. This time will be considered eligible for overtime pay and considered in the employee's work week overtime calculations.

*Example 1:* An employee takes a phone call for service after their regularly scheduled shift. The employee should record the time they take the call on the phone, to access the situation, and to notify the appropriate team leader or management team member to communicate the issue, as well as any other follow up action needed. The amount of time from the time the phone rang until the text communication was done was 10 minutes. The employee will log 15 minutes or .25 hours on their standard timesheet in Self-Service.

*Example 2:* An employee receives a text message to check their email after their regularly scheduled shift. The employee logs into email then needs to respond to the email. The amount of time from the time the test message until the email communication was done was 23 minutes. The employee will log 30 minutes or .50 hours on their standard timesheet in Self-Service.

The break point for rounding of time will always be rounded to the next 15-minute increment. Chart of examples below:

1 – 15 minutes =	Log time as .25
16 – 30 minutes =	Log time as .50
31 – 45 minutes =	Log time as .75
46 – 00 minutes =	Log time as .00 or the full hour