



## TEXAS TECH UNIVERSITY

### Operating Policy and Procedure

#### **OP 70.06: Employee Working Hours**

**DATE:** April 23, 2021

**PURPOSE:** The purpose of this Operating Policy/Procedure (OP) is to define the university's policies relating to administrative office hours, duty point, recordkeeping, overtime exemptions, and determining hours of work for staff employees and faculty employees who observe the university's administrative calendar.

**REVIEW:** This OP will be reviewed in April of odd-numbered years by the Assistant Vice President for Human Resources and the Office of Equal Opportunity with substantive revisions forwarded to the Chief of Staff to the President.

#### **POLICY/PROCEDURE**

##### **1. Definitions**

- a. **Employee:** A person hired by the University in accordance with federal and state regulations and the University's employment policies.
- b. **Regular Employee:** A person who is employed to work at least 20 hours per week for a period of at least four and one-half months and is not employed in a position that requires student status as a condition of employment.
- c. **Workweek:** A fixed and regularly recurring period of 168 hours, 7 consecutive 24-hour periods, beginning at 12:00 a.m. Sunday through 11:59 p.m. on the following Saturday.

##### **2. Administrative Office Hours**

- a. All administrative offices, except for those indicated below, will be open and operational from 8:00 a.m. to 12:00 p.m. and from 1:00 p.m. to 5:00 p.m., Monday through Friday. The following offices will remain open during the noon hour, Monday through Friday: Office of the Chancellor, Office of the President, Payroll & Tax Services, Human Resources, Transportation & Parking Services, and Texas Tech Police Department. Student Business Services will be open and operational from 8:00 a.m. to 4:30 p.m., Monday through Friday, and Transportation & Parking Services will be open and operational from 7:30 a.m. to 8:00 p.m., Monday through Friday. The Chancellor, President, Provost, and vice presidents may designate other offices to remain open during the noon hour, or at other times or days as required by registration or other activities.
- b. All university offices are normally closed on Saturdays, Sundays, and annually established university holidays. When the university observes a holiday that is not a traditional national

holiday, the university police will have sufficient personnel on hand and on call so public business can be conducted.

- c. The Chancellor, President, or Provost may approve variations to this schedule for specific periods of time.

### 3. Hours of Work

- a. General Policy

The established regular hours of work for a full-time employee will normally be 40 hours per workweek. Exempt employees who work more than 40 hours per week are not entitled to overtime pay or additional compensation.

- b. Assignment of Workweek

University employees are assigned to the following workweek:

- 12:00 a.m. Sunday through 11:59 p.m. on the following Saturday

In compliance with Fair Labor Standards Act provisions, all time worked during one shift of work is considered to have been worked on the day and in the workweek in which the shift begins.

- c. Determining Hours of Work

Work time includes all time the employee spends productively engaged on the job or is required or permitted to be at the place of work. Administrators have the right to schedule work time of employees under their charge and to modify that schedule as the needs of the university may require. The following guidelines are to be used to determine other periods that must be included as time worked.

- (1) Waiting Time

Ordinarily, brief periods of inactivity while on duty count as hours worked. Such time belongs to and is controlled by the university when the employee is unable to use the time effectively for personal purposes. Periods during which the employee is completely relieved from duty and which are long enough to be used effectively by the employee for personal purposes are not hours worked. To be completely relieved from duty, an employee must be told in advance that work will cease and given a specific time when work will resume.

- (2) On-Call Time

On-call time is time worked if employees are required to remain "on call" on university premises or so close thereto that the time cannot be used effectively for personal purposes. Employees who are not required to remain on university premises, but are merely required to leave word as to where they may be reached, are not working while "on call."

### (3) Call Back Time

Non-exempt employees called back to work outside of their normal work hours because of an emergency will receive a minimum of two hours of regular pay for the first call requiring the employee to report to the work facility. If hours worked are greater than two hours the employee will be reimbursed for the actual time worked. If the employee is called back again within two hours of the initial call back, the employee will not be paid an additional two hours but will only be paid for time worked beyond the two hours.

If the employee is called back to work on a university holiday, the employee will receive a minimum of three hours of regular pay for the first call back.

The regular hours paid for call back time will be credited toward hours worked in the workweek for the calculation of overtime. The counting of work time (only as it relates to "call back" work and not regular work) begins when employees are notified by the university that they must return to campus and ends with the completion of the call back duty.

The only employees eligible to receive call back pay are employees working in departments with an approved departmental call back pay policy and an approved system of keeping records for call back hours. A call back pay policy must comply with the following rules:

- (a) A written policy and timekeeping system must be prepared by the department, reviewed by Human Resources, and approved by the appropriate vice president or the Provost and the President or the Chancellor. A copy of the approved policy and timekeeping system is to be filed with Payroll Services prior to implementation.
- (b) Basic requirements for an acceptable policy and timekeeping system are:
  - Identify positions within the department by title and position class number that are eligible to receive call back pay.
  - Specify employees called back to work outside of their normal work hours because of an emergency will receive a minimum of two hours of regular pay for the first call requiring the employee to report to the work facility. If hours worked are greater than two hours the employee will be reimbursed for the actual time worked.

If the employee is called back again within two hours of the initial call back, the employee will not be paid an additional two hours but will only be paid for time worked beyond the two hours.

If the employee is called back to work on a university holiday, the employee will receive a minimum of three hours of regular pay for the first call back.

- Specify regular hours paid for call back time will be credited toward hours worked in the workweek for the calculation of overtime. The counting of work time (only as it relates to "call back" work and not regular work) begins

when the employee is notified by the university that it is necessary to return to campus and ends with the completion of the call back duty.

- Preparation and approval of a record each time a covered employee is called back to campus after normal work hours.
- Maintain a pay period log for each covered employee called back to work during the pay period indicating the date and time of the call back, who authorized the call back, the time the call back was completed, the number of hours actually worked for each call back, and the minimum hours to be credited for each call back.

**NOTE:** The forms identified in the above two paragraphs will be subject to audit by internal, state, and federal auditors.

(c) Exempt employees are not eligible for call back pay under any circumstances.

#### (4) Rest Periods

A full-time non-exempt employee may be given one or two rest periods per day, not to exceed 20 minutes per period. Rest periods are considered work time and are given at the discretion of the department or manager for which the employee works. Therefore, whether or not rest periods are granted, their frequency, regularity, and scheduling depend on the nature, level, and urgency of the work to be done and are subject to the approval of the employee's administrative officer.

A rest period is intended to be a recess to be preceded and followed by an extended work period, and it should not be taken at the beginning or at the end of a work period. Time not used for rest periods cannot be used to reduce work schedules or accumulated to be taken later.

Unauthorized extensions of authorized rest periods may be deducted from the employee's vacation accrual balance or, in the absence of a vacation balance, the employee may be placed on leave without pay for the excess amount of time taken.

Additionally, unauthorized extensions of authorized rest periods may be considered the basis for corrective action up to and including termination.

#### (5) Meal Breaks

A full-time non-exempt employee may be given a meal break of from 30 minutes to 1 hour in length. Meal breaks are not considered work time as long as the employee is completely relieved from duty. An employee is not completely relieved from duty if the employee is required or allowed to perform any duties, whether active or inactive, during a meal break. It is not necessary for the employee to leave the premises if otherwise completely freed from duties during the meal break.

Unauthorized extensions of authorized meal breaks may be deducted from the employee's vacation accrual balance or, in the absence of a vacation balance, the employee may be placed on leave without pay for the excess amount of time taken.

Additionally, unauthorized extensions of authorized meal breaks may be considered the basis for corrective action up to and including termination.

(6) Continuous Duty for 24 Hours or More

Continuous duty for 24 hours or more may not all be time worked. When a non-exempt employee is required to be on duty 24 hours or more, bona fide meal periods and regularly scheduled sleeping periods of not more than 8 hours may be excluded from time worked, provided adequate sleeping facilities are furnished and the employee can usually enjoy an uninterrupted night's sleep. If the sleep or meal is interrupted by a call to duty, the interruption must be counted as time worked.

(7) Duty of Less Than 24 Hours per Day

Duty of less than 24 hours per day is all time worked, even though the non-exempt employee is permitted to sleep or engage in other personal activities when not actively performing assigned duties. As long as the employee is required to be on duty, the time is included in hours of work.

(8) Residence on University Premises

An employee residing on university premises on a regular basis or for an extended period is not considered working all the time on the premises. The employee may engage in normal private pursuits and, thus, have time for eating, sleeping, entertaining, and other periods of complete freedom from all duty, or may leave the premises for personal purposes.

(9) Preparatory and Concluding Activities

Preparatory and concluding activities that are an integral part of the non-exempt employee's principal activity must be counted as time worked.

(10) Lectures, Meetings, and Training Programs

Lectures, meetings, training programs, and similar activities need not be counted as time worked if all of the following criteria are met:

- Attendance is outside the employee's regular hours of work
- Attendance is voluntary
- The course, lecture, or meeting is not directly related to the employee's job
- The employee does not perform any productive work during such attendance

(11) Outreach and Engagement Activities

In order to support employee outreach and engagement activities that connect the resources of Texas Tech University with those of the community, full-time staff are eligible to use up to 16 hours of outreach and engagement service time per fiscal year, and part-time staff are eligible to use up to 8 hours per fiscal year. Unused hours do not carry over each fiscal year. If more than the allotted hours are used within a fiscal year, the additional hours must be recorded as vacation or other approved leave, if applicable and available.

Non-exempt staff are required to report this time worked per their normal departmental procedures in order to meet the payroll processing deadline. All staff (non-exempt and exempt) must have their outreach and engagement hours pre-approved by the employee's supervisor through the Outreach and Engagement Application <https://apps.hr.ttu.edu/OEA/>. Hours not pre-approved must be recorded as vacation leave or other approved leave, if applicable and available.

It is both the supervisor and the staff member's responsibility to ensure outreach and engagement hours do not prevent the staff member from completing their required work. Additionally, outreach and engagement hours are considered time worked, which means hours worked over 40 during a workweek are eligible for overtime pay.

(12) Travel from Home to Work

Time spent in travel from home to work before a regular workday and to return home at the end of the workday is not considered as time worked.

(13) Travel as Part of the Day's Work

Required travel during a workday as part of an employee's principal activity, such as from jobsite to jobsite, must be counted as time worked.

(14) Extended Official Travel

Required travel that keeps a non-exempt employee away from home overnight is work time when it cuts across an employee's workday. An employee is simply substituting travel for other duties. In addition, time spent traveling during normal working time on non-work days is work time. Thus, an employee who regularly works from 8:00 a.m. to 5:00 p.m., Monday through Friday would also be on work time for travel during these hours on Saturday and Sunday. Regular meal period time is not counted as work time.

(15) Automobile Used in Travel from Home Community

If an employee is offered public transportation, but requests permission to drive his/her car instead, hours worked will count as the shorter of the time spent driving their car or the time the employee would have spent had he/she used public conveyance.

#### 4. Duty Point

An employee must, during normal working hours, conduct university business only at the employee's regular or assigned temporary duty point, unless the employee is traveling or has received prior written authorization from the Chancellor or the President to perform work elsewhere. In no event shall an employee's personal residence be deemed that employee's regular or assigned temporary place of employment or duty point without the written approval of the Chancellor or the President.

A request for exception should include the type of work to be performed, how the time and productivity will be monitored, how it meets the business needs of TTU to have this person work from home, and the duration for which the exception is being requested.

In accordance with provisions of the Family and Medical Leave Act (FMLA), an employee who is on FMLA leave from the university will not be granted a change of duty point.

## **5. Recordkeeping and Overtime Exemptions**

- a. Each employee, unless specifically exempt from the recordkeeping provisions of the Fair Labor Standards Act (FLSA), will submit a daily record of actual hours worked and applicable leave usage. Exempt employees will submit monthly reports of leave usage.
- b. The hours worked and leave usage will be reported in a manner and form prescribed by the university in order to meet the payroll processing deadlines.
- c. A non-exempt employee required to check in and out of work by a time clock will have his/her hours worked and leave usage electronically transmitted to Payroll Services in order to meet the payroll processing deadlines. Time clock records must be preserved for a period of three years in the employing department.
- d. Employees exempt from the overtime provisions of FLSA are not normally required to submit a daily record of hours worked and leave usage. However, benefits eligible exempt employees are required to report leave usages in a manner and form prescribed by the university in order to meet the payroll processing deadlines. If an administrator determines that there are business reasons that benefit the university, he/she may require exempt employees to submit a daily record of hours worked and leave usage or to check in and out of work by a time clock.
- e. An employee cannot be employed partially in an exempt status and partially in a non-exempt status. An employee employed partially in any non-exempt status is considered entirely non-exempt. Each administrator appointing an employee in any non-exempt capacity is responsible for ensuring that accurate records are maintained on the total hours worked by that employee.
- f. Administrators are accountable for reviewing and approving complete and accurate records of hours worked and leave usage by all employees under their charge. Neither an employee nor an administrator may disregard or circumvent the recordkeeping or overtime requirements of the FLSA or the university by instructing or permitting an employee to submit an incorrect record of hours worked and/or leave usage or by any other means.
- g. Violations of the Fair Labor Standards Act may result in both civil and criminal penalties including monetary fines and/or imprisonment.

## **6. Authoritative References**

United States Department of Labor, Wage and Hour Division, Chapter 30 through Chapter 32, and Regulation 29 C.F.R. Part 785

Texas Government Code, Chapter 658, Chapter 662, Subchapter A, Sections 662.001 - 662.011

Texas Government Code, Section 658.010

29 CFR, Chapter 825, Family and Medical Leave Act of 1993

**7. Right to Change Policy**

Texas Tech University reserves the right to interpret, change, modify, amend, or rescind this policy, in whole or in part, at any time without the consent of employees.