
05-01-03 Implementing the 37.5 Work Week

PURPOSE

To establish the process by which Nashville State Community College shall implement and carry out the 37.5-hour standard workweek.

POLICY/GUIDELINE

I. Application and Scope

- A. All employees of Nashville State Community College who are considered to be full-time shall work a minimum of 37.5 hours per week throughout the year.
 - 1. This work schedule shall include a one-hour lunch/meal break and up to two fifteen-minute miscellaneous breaks during each workday as workflow permits.
 - 2. For purposes of calculating the hours worked each week, lunch/meal breaks shall not be counted as "time worked" but miscellaneous breaks shall be counted.
 - 3. Establishing specific campus office hours shall be at the discretion of the President.
- B. The College recognizes that, due to the nature of some work, certain jobs do not lend themselves to a 37.5-hour workweek schedule. Exceptions are permissible at the discretion of the President and pursuant to prior approval by the Chancellor.
- C. The official workday will be 7.5 hours; and therefore, all attendance records, time sheets, leave records, payroll documents and other recordkeeping instruments shall be kept only in hours and tenths of hours reflecting the actual hours worked each day and week. In most cases, these should indicate 7.5 hours per day and 37.5 hours per week. Other documents, such as employee recruiting materials, orientation sessions and comparative salary studies, should reflect this workweek.
 - 1. The following schedule of tenths of hours shall be followed to document time worked per day:
 - a. .1 hour 1 - 6 minutes
 - b. .2 hours 7 - 12 minutes
 - c. .3 hours 13 - 18 minutes
 - d. .4 hours 19 - 24 minutes
 - e. .5 hours 25 - 30 minutes
 - f. .6 hours 31 - 36 minutes
 - g. .7 hours 37 - 42 minutes
 - h. .8 hours 43 - 48 minutes
 - i. .9 hours 49 - 54 minutes
 - j. 1.0 hours 55 - 60 minutes

II. Compensation and Overtime Pay

- A. Pursuant to the College's establishment of the 37.5-hour workweek, the College has also established a 7.5-hour normal workday and a 5-day workweek. Any exceptions are subject to the discretion of the President and at the approval of the Chancellor, where applicable.
1. The normal fiscal work year shall be 1,950 hours.
 2. Compensatory time and overtime payments are available to non-exempt employees only.
 - a. Compensatory time shall be accrued and used in lieu of cash overtime pay, unless the College determines otherwise, or the Fair Labor Standards Act requires cash payment because the employee has accumulated the maximum number of compensatory time hours.
 - b. Both compensatory time and overtime pay will be granted at straight time for hours worked up to 40 in a workweek and at time and one-half for any hours in excess of 40 in a workweek.
 - c. Accrued time worked shall include hours actually worked and holiday hours. Any hours other than holiday hours and work hours are excluded from overtime compensation.
 3. In accordance with T.C.A. § 8-50-801, when an employee requests annual leave and compensatory time is available, the compensatory time shall be used first, unless the accumulated annual leave balance at the beginning of the pay period is within two (2) days of the maximum accrual rate for the employee.
 - a. When an employee is within two (2) days of the maximum, annual leave may be used throughout the pay period.
 - b. Any employee whose annual leave balance is not within the two (2) day maximum at the beginning of the pay period must use compensatory time during the entire pay period.
 - c. Otherwise, the College will honor an employee's request for compensatory time off unless it would be unduly disruptive to the College's operations.
 4. When cash payment is made for overtime, it shall be calculated at the rate earned by the employee at the time of the payment.
 5. When meals and/or lodging are provided as part of the base pay, then the value of such must be included in determining the hourly overtime rate.
 - a. However, where cash payment is made upon termination, the employee shall be paid for accrued compensatory time at the higher of the following:
 - i. The average regular rate received by the employee during the last 3 years of employment; or
 - ii. The final regular rate received by the employee.
 6. Upon hire, information must be provided to every non-exempt employee explaining the overtime provisions of the Fair Labor Standards Act (FLSA), and their rights and obligations under those provisions.

7. Exempt employees will be paid on a salary basis.
 - a. Exempt employees must be paid a set amount of money that does not change each week regardless of the quantity or quality of work performed.
 - b. Intermittent leave under the Family Medical Leave Act does not defeat the salary basis of an exempt employee pursuant to 29 C.F.R. Sec. 541.602 (b) (7).

III. Unpaid Disciplinary Suspensions for Violation of Workplace Conduct Rules

- A. Pursuant to 29 C.F.R. Sec. 541.602(b)(5), deductions for full day disciplinary suspensions for violation of workplace conduct rules are permissible if:
 1. The employee does no work for a full day;
 2. Deductions are in full day increments;
 3. Such deductions are carried out pursuant to a written policy that is applied uniformly to all employees;
 4. The suspension is imposed in good faith.
- B. The College may, at its discretion, impose unpaid suspensions under limited circumstances pursuant to its disciplinary/corrective action policy. Such suspensions are permitted for serious conduct violations only, not for job performance issues.
 1. For instance, an employee may be placed on an unpaid suspension for violating the sexual harassment or workplace violence policy.
 2. If the employee performs any work during the suspension period, such as responds to phone calls from the office regarding work, or reads and responds to work-related emails, etc., no deductions may be taken for those days.
- C. In the absence of a uniformly applied written policy, the College may suspend an exempt employee for part of a week with pay, or suspend the employee for an entire workweek without pay.
 1. "Workweek" means the standard workweek, not just seven consecutive days.
- D. With or without such a policy, any employee suspended without pay is entitled to the opportunity for an institutional hearing or a hearing held pursuant to the Tennessee Uniform Administrative Procedures Act.

IV. Improper Deductions from Pay

- A. Improper deductions from an employee's pay are prohibited.
- B. An exempt employee who believes an improper deduction has been made from his/her pay may file a complaint by notifying the Director of Human Resources in writing, stating the amount of the alleged improper deduction, if possible, and the basis for believing the deduction to have been made improperly.
 1. If, after a review of the appropriate records, it is determined that there was an improper deduction, the College shall reimburse the employee in the appropriate amount.

V. Leave

- A. The accrual of annual leave shall be recorded in hours and tenths of hours according to the following schedule for regular clerical and support personnel who work full-time.

Years of Service	Hours Accrued per Month	Maximum Hours Accrued per Year	Maximum Total Hours Accumulated within FY	Maximum Accrued Hours Permitted to Carryover to Next FY
0-5	7.5	90.0	315.0	225.0
5-10	11.3	135.6	405.6	270.0
10-20	13.2	158.4	450.9	292.5
20 or more	15.0	180.00	495.0	315.0

- B. Annual leave hours accumulated in excess of the maximum accumulation carried forward will be transferred to sick leave on July 1 each year.
- C. Regular full-time executive, administrative and professional personnel and twelve-month academic personnel, shall accrue annual leave at a rate of 15 hours per month or 180 hours per year.
 - 1. The maximum total accumulation within the fiscal year is 495 hours, and the maximum accumulation that can be carried forward to the next fiscal year shall be 315 hours.
- D. The accrual of sick leave will also be recorded in hours and tenths of hours. All regular full-time employees shall accrue 7.5 hours of sick leave per month, with no maximum accumulation level.
- E. The College shall account for and report leave usage in units of hours and tenths of hours according to the schedule under Section I.C.1 of this policy.

VI. Benefits

- A. Retirement
 - 1. All regular employees are, in accordance with the TBR Policy 5:01:03:00, Retirement, eligible for retirement.
- B. Insurance
 - 1. In order to be eligible for membership in the State of Tennessee Group Plan, a regular employee must work a minimum of 30 hours per week.
- C. Longevity
 - 1. The 37.5-hour workweek does not affect longevity payments, anniversary dates or computations.

VII. MODFY Appointments

- A. The basis of a MODFY appointment is the existence of a full-time position for less than twelve months per year. Here, as in all College policy, full-time is determined by number of hours

worked per week, not months served per year. Therefore, the implementation of the 37.5-hour work week has no impact on MODIFY appointments, other than to reduce the hours worked to 37.5 per week.

1. All Academic Employees
 - a. In conjunction with the College Policy 05-01-00, General Personnel Policy, the specifications for the full-time workweek hours apply to all employees, including faculty.
 - b. The observance of the 37.5-hour workweek does not alter the definition of "full-time teaching load."
 - c. Faculty office hours will continue to be determined by the President or his/her designee.
 - d. Where professional librarians maintain a standard workweek comparable to administrative employees, their work schedule should reflect 37.5-hours per week if they are to be considered full-time.

VIII. Exceptions

- A. Exceptions to any of the provisions above must be approved by the Chancellor in advance.

IX. Rights and Responsibilities of Employees Under the Overtime Provisions of the Fair Labor Standards Act (FLSA)

- A. Any hours worked between 37.5 and 40 in a workweek must be compensated at additional straight time (either by pay or compensatory time as determined by the supervisor).
- B. Any hours worked beyond 40 in a workweek must be compensated at time and one-half (either by pay or compensatory time as determined by the supervisor).
- C. The value of meals or lodging received, if applicable, must be added to an employee's regular hourly rate to determine an overtime rate of pay.
- D. A non-exempt employee must receive pay or compensatory time for all hours worked. Time cannot be volunteered.
- E. Unauthorized overtime, however, is not permitted. Supervisors are responsible for approving overtime hours in advance based on the business needs/demands of the institution. Employees must receive approval from their supervisor before working overtime, including beginning work early, working late or through all or a portion of their lunch break, even if it is "just to finish up". While any time worked beyond 7.5 hours per day is considered overtime and the employee must receive pay or compensatory time for it, even if the overtime hours are unauthorized, employees who violate this provision and work unauthorized overtime hours may be subject to discipline pursuant to the College's policy on discipline/corrective action.
- F. A supervisor is in violation of the law if a non-exempt employee is permitted to work overtime without compensation.
- G. The FLSA states that an employee does not have the right to refuse overtime.

- H. A supervisor has the right to schedule compensatory time instead of paying overtime. If this is done within the same workweek, it is given off at equal time. If compensatory time is given off within the pay period, though not within the same workweek, it is at time and one-half.
- I. In determining whether to pay extra hours at straight time or overtime, time actually worked plus holiday hours are counted. Examples are shown below:

1. Example A:

M	T	W	TH	F	S
7.5	7.5	7.5	7.5	2.5	7.5
				5.0 Sick Leave	

- a. In this case, an employee actually worked 32.5 hours by the end of the day Friday as 5.0 hours of sick leave was used. The employee worked 7.5 hours extra on Saturday. The total hours to be paid equal 45. Only 40 hours were actually worked. This means that the 7.5 extra hours would all be paid at straight time.

2. Example B:

M	T	W	TH	F	S
7.5	7.5	7.5	7.5	10.0	2.5
Holiday					

- a. In this case, an employee actually worked 32.5 hours by the end of the day Friday. The employee worked 2.5 hours on Saturday. Total hours actually worked equal 35.0. However, since holiday hours count as hours worked, extra pay would be based on 42.5 hours worked. This means that 2.5 hours would be paid at straight time and 2.5 hours at overtime.

- J. Non-exempt employees have an obligation to immediately notify Payroll or the Office of Human Resources Office if they feel these guidelines are not being followed.

SOURCES

- [The Fair Labor Standards Act \(FLSA\)](#)
- [T.C.A. § 8-50-801 Annual Leave](#)
- [29 C.F.R. Sec. 541.602](#)

RELATED POLICIES

- Nashville State Policy 05-01-00 General Personnel
- [TBR Policy 5:01:03:00 Retirement](#)
- [TBR Guideline P-020 Procedures for Implementation of the 37.5 hour Work Week](#)

Approved by NSCC Cabinet 9/16/20