



Overtime Leave Option for Non-Exempt Classified Employees

In accordance with the federal Fair Labor Standards Act (FLSA), managers are allowed discretion on when or whether to apply Overtime Leave in lieu of monetary overtime pay for non-exempt classified employees.

Overtime Leave is leave that is earned at the rate of one and one-half hours (1.5) for each hour actually worked over 40 in a workweek. For example, if a non-exempt employee works 48 hours in a workweek, the amount of Overtime Leave earned would be 8 hours times 1.5 for a total of 12 hours of Overtime Leave. Additional hours worked in a week that do not exceed 40 hours actually worked must be paid at straight time (the employee's normal rate of pay). These hours cannot be earned as Overtime Leave. For example, if a non-exempt employee works 40 hours (from Sunday through Thursday) in a workweek and uses 8 hours of leave to take Friday off, for a total of 48 hours, the additional 8 hours must be paid at straight time.

Employee Agreement

Before an employee can be granted Overtime Leave, he/she must agree **each year** to receive Overtime Leave instead of overtime pay. To do so, the employee must complete a new Overtime Leave agreement form **on January 10 of each year**. (See attached Overtime Leave Employee Agreement.)

- Non-exempt employees must receive written notification prior to the first occurrence of Overtime Leave.
- Employees must sign agreement forms acknowledging their understanding of the policy.
- Department timekeepers must maintain copies of the notifications.

Accrual Rates and Recordkeeping

Each non-exempt employee may accrue not more than 120 hours of Overtime Leave, which is equal to 80 hours of overtime worked. Individual managers can set a lower maximum Overtime Leave accrual.

- One-hundred and twenty (120) hours of Overtime Leave accrual is an overall maximum that may never be exceeded. It is not tied to any specific timeframes such as a one-year period.
- Overtime Leave balances do not expire; the hours are either used by the employee or paid out to the employee upon separation or termination.
- Payment for Overtime Leave hours earned is only allowed upon retirement or termination. Employees must be paid for unused Overtime Leave at one of these options:
 - The average regular rate received by the employee during the last three years of employment.
 - The final regular rate of the employee, *whichever is higher*.
- Employees who transfer within VCU will be paid for their Overtime Leave unless the new department is willing to accept the financial liability.

Once the employee reaches the maximum accrual, all other overtime hours must be paid at one and one-half of the regular rate until Overtime Leave balances drop below the 120-hour maximum.

NOTE: Hourly employees are not eligible for Overtime Leave and must be paid for overtime worked.



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Overtime Leave Employee Agreement

By signing below, I certify that:

- I have received a copy of the “Overtime Leave Guidelines for Non-Exempt Classified Employees.”
- I agree that when I am required by management to work beyond 40 hours in a workweek, I will accept, at management’s discretion, Overtime Leave in lieu of Overtime Compensation.

Name of **Employee** (print)

Employee V I-D #

(contact your Personnel Administrator for your V I-D or obtain from VCU Self Service)

Signature of **Employee**

Date

Name of **Supervisor/Manager** (print)

Signature of **Supervisor/Manager**

Date

This form must be signed by both parties and returned to the department timekeeper.