PURPOSE

The purpose of this policy is to establish guidelines for the administration of pay practices in compliance with the Fair Labor Standards Act, the Florida Minimum Wage Act, and related regulations issued by the U.S. Department of Labor.

This policy supersedes the following policies:

- University of Miami Hospital: Attendance and Hours of Work, Policy No. 1119, dated April 2014.

This policy also supersedes certain provisions concerning Overtime within the following policies:

PHILOSOPHY

The University of Miami is committed to rewarding employee contributions to its teaching, research, and clinical care missions. Our compensation structures are benchmarked for strategic market alignment and competitiveness. Rewards are designed to recognize performance, ensure fairness and equity, and maintain flexibility to respond to changing business needs.

POLICY

It is the policy of the University to comply with the Fair Labor Standards Act, Florida Minimum Wage Act, and related regulations issued by the U.S. Department of Labor with respect to employment classifications and compensation for hours worked.

DEFINITIONS

Exempt employees shall mean those employees who qualify for an exemption under the FLSA, and in turn, are paid on a salary basis regardless of the number of hours worked. Exemptions shall be determined by Human Resources’ Office of Compensation, Recognition and Payroll in accordance with the FLSA and related regulations issued by the U.S. Department of Labor.

Fair Labor Standards Act (“FLSA”) shall mean the federal statute which sets standards on the payment of minimum wage, overtime pay, as well as recordkeeping and the use child labor.

Florida Minimum Wage Act shall mean the state statute which governs the payment of minimum wages to non-exempt employees.

Hours worked shall mean the time an employee performs authorized duties which relate to the University’s operations. Such time shall include attendance at meetings and training sessions required by the University, and time spent receiving medical attention at the direction of the University during the employee’s regularly scheduled work hours. Such time shall not include time spent walking, riding or traveling to and from an employee’s actual place of work. Moreover, “hours worked” shall not include vacation time, personal days, jury duty, University recognized holidays, sick leave or bereavement leave or other leave provided by the University’s policies.

Meal period shall mean a bona fide meal break of 30 minutes to 60 minutes in duration as determined by the applicable supervisor. During such periods a non-exempt employee is completely relieved from performing duties. Meal periods shall not be compensable time.

Non-exempt employees shall mean those employees who do not qualify for an exemption under the FLSA and, in turn, are paid on an hourly basis for all hours worked.

Recordkeeping shall mean the University’s practice of maintaining time, attendance and payroll records for its employees in accordance with the FLSA.

Rest period shall mean a period of short duration consisting of 15 minutes. Rest periods shall be compensable time.
Work day shall mean the period between the time on any particular day when an employee commences his/her duties and responsibilities and the time on that day at which he/she ceases to perform such duties and responsibilities. While there are various work day schedules (i.e., 7.5 hours per day, 8 hours per day, 10 hours per day, etc.), the University reserves the right to determine the length of a work day.

Work week shall mean a fixed and regularly recurring period of seven consecutive 24-hour periods. The University reserves the right to modify the work week for employees.

PROCEDURE

I. HOURS WORKED

A. GENERALLY

Both exempt and non-exempt employees expected to ensure the operations of their department are not comprised.

Given the nature of the exempt classification under the FLSA, the achievement of performance standards may require exempt employees to work in excess of 40 hours per work week without entitlement to overtime pay. In turn, the work schedule of an exempt employee is based upon the nature and degree of work performed, as well as any assigned responsibilities.

Non-exempt employees shall be issued a pre-determined schedule for the work week, and shall be entitled to receive overtime pay for all hours worked in excess of 40 hours per work week. All non-exempt employees shall be required to record all hours worked in accordance with the established timekeeping system. Such record of all hours shall consist of the following information:

- Employee’s start time for the work day;
- Employee’s start and end times for a meal break taken during the work day; and
- Employee’s end time for the work day.

Non-exempt employees are responsible for accurately recording their hours worked. Oversights and errors must be immediately reported to the supervisor. All employee time records must be reviewed and approved by the supervisor in accordance with established payroll practices and deadlines.

All non-exempt employees are expected to be ready to commence work at the start time recorded for the work day. Non-exempt employees are prohibited from commencing work earlier than their pre-determined start time, working through a meal break, or working past the pre-determined end time, including checking and responding to email or other electronic communications outside of a non-exempt employee’s established work hours without prior approval from their supervisor. Any work required to be performed by a non-exempt employee which results in the employee working in excess of 40 hours per work week must be pre-approved by the employee’s supervisor. Failure to obtain pre-approval shall result in disciplinary action.
B. TRAVEL TIME

1. EXEMPT EMPLOYEES

Employees may be required to travel in connection with the performance of their work. Given the nature of duties and responsibilities, time spent by exempt employees in travel is not compensable time, but rather is included in the exempt employee’s salary.

2. NON-EXEMPT EMPLOYEES

For non-exempt employees, it is necessary to clarify the pay practices associated with non-exempt employees’ travel.

a. COMMUTE BETWEEN HOME AND WORK

The time spent by a non-exempt employee in their normal commute between the employee’s home and work site is not considered hours worked, and therefore, is not compensable. This is also the same for a non-exempt employee who works at different job sites in the area.

b. OUT OF TOWN TRAVEL

Single-day out-of-town travel is considered compensable time for non-exempt employees, except the portion of the travel considered normal commute between home and work. Overnight out-of-town travel time is compensated when it is within the non-exempt employee’s regular work day. Regular meal breaks are not considered compensable time while traveling.

If a non-exempt employee must commute/travel to a location outside of their normal place of work to fulfill work requirements, that actual travel time may be compensated as outlined below:

- If the travel is within normal work hours, such time spent in travel is compensable.

- If the travel is outside of normal work hours and is on a common carrier (e.g. commercial airline carrier), or the non-exempt employee is a passenger in a vehicle other than a common carrier, and work is performed during such travel, the time spent in travel is compensable. However, where the travel time is outside of normal work hours and is on a common carrier or the non-exempt employee is a passenger in a vehicle other than a common carrier, and no work is performed, the time spent in travel is not compensable.

- If travel is outside of normal working hours and the employee is required to drive, the time spent in travel is compensable.

For example, a non-exempt employee who regularly works from 8 a.m. to 5 p.m. from Monday through Friday travels on business to a location that requires two hours of travel time. The employee leave Friday at 8 a.m., works the remainder of Friday and Saturday morning, and returns on Saturday at 2 p.m. The two hours of travel time on Friday and the two hours of travel time on Saturday are compensable time. The hours spent working on Friday and Saturday are also compensable time.
Another example can be seen when a non-exempt employee who regularly works from 8 a.m. to 5 p.m. from Monday through Friday, and travels on business to a location that requires two hours of driving to the airport and a 5-hour flight. The employee leaves Saturday at 8 a.m. and arrives at his/her destination at 4 p.m., but does not begin working until Monday at 8 a.m. The employee then works until 5 p.m. on Monday and from 8 a.m. to 5 p.m. on Tuesday. After he/she finishes working on Tuesday at 5 p.m., the employee catches a cab to the airport, flies and upon arrival at the airport drives two hours home. The employee arrives Wednesday morning at 1 a.m. and return to work at the regularly scheduled time that day to work the remainder of the week. The two hours spent driving on Saturday and Tuesday night/Wednesday morning are compensable time. The work hours on Monday and Tuesday are also compensable time. Meal periods and other time outside the employee’s normal work hours are not compensable. The flight time is not compensable since it is on a common carrier and no work was performed.

C. TRAINING

Employees may be required to attend trainings in connection with the performance of their work.

1. EXEMPT EMPLOYEES

Given the nature of duties and responsibilities, time spent by exempt employees in training is not compensable time, but rather is included in the exempt employee’s salary.

2. NON-EXEMPT EMPLOYEES

For non-exempt employees, it is necessary to clarify the pay practices associated with non-exempt employees’ attendance at trainings.

Time spent by non-exempt employees in training or preparing for training outside regular working hours shall be compensable if the training is required by the University, department, or supervisor to either bring the employee’s performance up to an acceptable level; or to provide the employee with knowledge or skills to perform their duties and responsibilities in the employee’s current position. Time spent in training is not compensable where all of the following are shown: (i) the employee’s attendance is outside of the employee’s regular work hours; (ii) attendance is voluntary; (iii) the training is not directly related to the employee’s duties and responsibilities; and (iv) the employee does not perform any productive work during their attendance.

II. SCHEDULING OF MEAL BREAKS; REST PERIODS

A. MEAL BREAKS

All non-exempt employees are required to take their meal break, which may consist of 30 to 60 minutes in duration as determined by the applicable supervisor. Meal breaks are to be scheduled at the discretion of the supervisor to ensure minimal disruption to operations.

Meal breaks may not be missed, skipped, avoided or shortened. Non-exempt employees on a meal break are required to leave their designated work area and refrain from performing work-related tasks and assignments throughout the duration of the meal breaks, unless otherwise specifically directed by the supervisor. Non-exempt employees who are required by their
supervisor to perform work-related tasks and assignments during any portion of their meal break, including being required to respond to electronic communications, etc., shall be compensated for the entire meal break period, provided that the meal break is not rescheduled by the supervisor to permit the employee to enjoy their full meal break.

Public areas and patient care areas in the University’s hospitals and clinical settings may not be used for meal breaks, unless otherwise designated.

B. REST PERIODS

1. GENERALLY

Non-exempt employees are provided two (2) rest periods, each consisting of 15 minutes, during each normally scheduled work day. When taking these rest periods, non-exempt employees are encouraged to leave their workstation and relax. While the timing of a rest period must be arranged with the employee’s supervisor in order to ensure the continued operation of a department, said periods must be scheduled to occur after the first 30-minutes of a work day and before the last 30-minutes of a workday.

Rest periods are afforded to employees to allow employees a short break during the course of the day. During these rest periods, employees are compensated because the employee may be asked to perform work-related duties and the employee may be expected to remain on the work premises. In turn, rest periods may not be used in combination with a meal break, or account for a late arrival or early departure. Also, rest periods may not be accumulated as vacation, holiday or any other form of leave.

Public areas and patient care areas in the University’s hospitals and clinical settings may not be used for rest periods, unless otherwise designated.

2. BREAK TIME FOR NURSING MOTHERS

Employees who are nursing mothers shall be able to use their rest periods for the expression of milk. However, breaks lasting more than 15 minutes shall be unpaid for non-exempt employees, and such unpaid time must be reflected on the employee’s time records.

The University is committed to providing nursing mothers with a comfortable and private place to express their milk. As such, multiple Nursing Mothers Rooms are located at the Coral Gables, Miller School of Medicine, and Rosentiel Marine campuses. Each of the rooms provides a private space to nursing mothers to express milk. Additionally, nursing mothers are also free to use their private offices should they choose to do so. To schedule use of a Nursing Mothers Room or for more information on the Nursing Mothers Program, please contact Human Resources’ Office of Workplace Equity and Performance, or visit the Nursing Mothers Program webpage to complete a Nursing Mother Accommodation Request Form.

III. OVERTIME

Non-exempt employees shall receive overtime pay at a rate of one and one-half (1½) times the employee’s hourly rate for all hours worked in excess of 40 hours in a work week. All hours in excess of 40 hours per workweek must be recorded on the non-exempt employee’s time records. Under no circumstances is a non-exempt employee permitted to perform any work “off
the clock,” nor is a non-exempt employee permitted to accept a promise of “time off” or use of “compensatory time” in the future as payment for overtime worked.

All overtime must be approved by the employee’s supervisor in advance of working overtime. Depending upon the University’s operational needs, non-exempt employees shall be required to work overtime when requested to do so, without advance notice.

IV. VIOLATIONS OF THIS POLICY

Failure to follow this policy, including the falsification of time records (either by intentional act or omission), failure to record all work hours, knowingly failing to report oversights or errors in pay, and/or assisting another employee to violate this policy shall result in disciplinary action, up to and including termination.

V. POLICY INTERPRETATION; AMENDMENT; AND SEVERABILITY

This policy and the procedures described herein above shall be interpreted in a manner consistent with the FLSA, Subtitle B of Title 29, Code of Federal Regulations, other guidance issued by the U.S. Department of Labor, and any interpretative case law. Amendments to this policy warranted by changes in the law may occur, from time to time. In such cases, attempts will be made to advise employees of any amendments to this policy. Should changes in federal, state or local law be inconsistent with any provision contained in this policy, then such provision shall be deemed severable and superseded by such law, and the remaining provisions of this policy shall remain unmodified and in full force and effect.