0550.10 Additional Compensation

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**PURPOSE AND SCOPE**

The University is committed to providing a competitive total compensation package that attracts, retains, and motivates a high quality and diverse workforce. This guide provides University departments with a method to provide a regular employee with additional compensation beyond their normal regular pay, under identified and approved special circumstances and conditions.

The Fair Labor Standards Act (FLSA) is a Federal Employee Protection Act that includes provisions which prohibit child labor, set minimum wage, require overtime pay, require equal pay and require record keeping. FLSA governs the distinction between exempt status (not eligible for overtime pay) and non-exempt or hourly status (eligible for overtime pay). An employee has to be either exempt or non-exempt in totality, not each position.

**DEFINITIONS**

Additional Compensation (Additional Compensation Form) – Additional effort for work outside the work year or outside the normal assigned percent full time may be compensated with additional compensation. Additional compensation is usually appropriate in situations including summer research work paid for by a grant, work for a department other than the employee's primary department, work outside the regular position, or teaching of a non-credit course outside of normal work hours. For example, an employee who works in an academic department may serve as a timekeeper for athletics events; an employee in an administrative office may agree to write or edit a manual for a different department outside of normal work hours; an employee may agree to teach a non-credit course related to a hobby or interest. Such work is generally sporadic or short term. If the work is for a department other than the home department, approval of the home department is required to ensure that there is no conflict between the regular position and the additional effort.

**FLSA Status:**

* Non-exempt employees, who perform additional work related to their University responsibilities in addition to the 40-hour workweek, are to be paid overtime. If the supervisor permits work beyond 40 hours in a workweek (does not expressly forbid overtime without advance permission) and is aware of the overtime, the supervisor must be sure it is reported by the employee in their timesheet for approval and payment. It makes no difference whether the employee performed nonexempt duties or exempt duties during a particular hour or workweek because the University has already determined that the employee's primary duty is non-exempt. A weighted average is used to calculate overtime for employees who work two or more jobs for which different straight-time hourly rates of pay have been established. The earnings for all such rates are added together and this total is then divided by the total number of hours worked at all jobs to get the average hourly rate which is multiplied by 1.5 and paid as the overtime rate.
* Exempt employees do not receive additional compensation for work related to their University responsibilities or for additional duties as assigned within the scope of their position. Exempt employees are also not eligible for overtime, even though it may cause them to work more than 40 hours a week. FLSA exemption categories include administrative, executive, professional, highly skilled computer professionals, and outside sales positions that pass the exemption duties test and meet salary thresholds. Exempt employees can be paid additional compensation as a flat fee or lump sum, however any additional hours worked must be reported to payroll to monitor compliance with the Patient Protection and Affordable Care Act.
Independent Contractor/Consultant Independent Contractors:

Independent Contractor/Consultant Independent Contractors who are not employees are paid via accounts payable. If in doubt about whether the situation is to be considered work of an Independent Contractor/Consultant, review Administrative Practice Letter #29. Keep in mind that a current employee of the University is not to be considered as an independent contractor except where the services provided are not related to the work normally performed by the individual as an employee, and where the services to be provided by the individual qualify the individual as an independent contractor.

- Students who are elected by a student body to serve in a “government” capacity would not be considered to be in an employment relationship; therefore hours pertaining to this work do not need to be compensated. It is solely at the University’s discretion to choose to pay a student who is not our employee, which can be paid via Accounts Payable.
- Honorariums: Generally, a nominal payment made without UMS having any liability or legal obligation made to a person for his or her services in a volunteer capacity or for services for which fees are not traditionally required. If someone is paid more than a nominal amount, they are not a volunteer. Examples include to pay coaches for their costs; payment to guest speakers at a conference meeting to cover their travel, accommodation, or preparation time.

Stipend:

A stipend is a payment in addition to one’s base pay for an assignment which is not part of the employee’s ongoing appointment and is above and beyond the normal assigned work/percentage of time. A stipend is used to compensate the employee for the effort and significantly higher responsibility related to a special assignment for a specified period of time. When the special assignment ends, the stipend will end and the salary will revert to the salary for the ongoing appointment. Stipends expected to last one year or longer are included in the calculation of base salary. Benefits based on salary, such as retirement, life insurance, and long-term disability are based on the salary including the stipend. Certain collective bargaining agreements have provisions for stipends for specified assignments. Stipends are not increased by across-the-board increases, therefore a reclassification may be more appropriate for positions which may continue for a number of years -- when the appointment is for an indefinite period or the incumbent may be considered for reappointment to any number of terms.

Teaching Overload:

A teaching overload or part-time temporary faculty teaching agreements are not considered “additional” compensation under this policy.

RESPONSIBILITIES

Additional compensation must be in accordance with applicable law, IRS regulations, collective bargaining agreements, and university policies. Additional compensation is not always appropriate for work performed while filling in for another employee who occupies a higher title. Before agreeing to pay add compensation or stipends, connect with your HR Partner for best practices to avoid inconsistencies or misapplication. For represented employees payments must be in accordance with the applicable collective bargaining agreement. In the AFUM unit, relevant provisions are in Article 13 (chair stipends) and Article 20 (overloads). In the UMPSA unit, see Article 14, Section B.9.

Any form of stipend or additional compensation for members of Management Group and positions that report directly to a university President requires prior Chancellor approval. Any stipend or additional compensation that, when added to base salary, results in a total salary for any employee at a specified level (currently $90,000) must be reported to the Chancellor.

If the work is for a department other than the home department, approval of the home department is required to ensure that there is no conflict between the regular position and the additional effort.

Additional compensation outlined in this policy is initiated by the department by completing one of the following payroll forms listed below that must have authorized signature of the Director or Department Head and Human Resources.

Additional compensation is paid on the employee’s regular paycheck. Requests received after the specified payroll processing deadline are paid on the next payroll for that individual.
GUIDELINES

Stipend

Temporary stipends (earnings code 680) are used for an assignment which will last less than one full work year. For an employee with an academic year appointment, this means less than nine months. Temporary stipends are paid over the period of the assignment rather than being spread over twelve monthly installments. Temporary stipends are not included in the employee’s base salary, which is used for benefits calculations. Consequently, benefits which are based on salary, such as retirement, life insurance, and long-term disability, are not based on the stipend amount.

Regular stipends (earnings code 690, or for stipends for endowed/named chairs earnings code 691) are used for an assignment which will last one full work year or longer. The stipend is spread over twelve installments. The stipend is included in the calculation of base salary. Benefits based on salary, such as retirement, life insurance, and long-term disability, are based on the salary including the stipend.

Ranges for Stipends

The base salary of senior administrators holding academic rank may include a specifically identified administrative duty stipend. A stipend greater than the following amounts require Chancellor approval:

- Vice President, Provost, or Dean: up to $15,000
- Associate or Assistant Dean or Executive Director: up to $12,000
- Director: up to $9,000
- Chairperson excluded from collective bargaining unit: up to $9,000

The President may approve an increase in the amount of a stipend during the term of appointment or upon appointment to a subsequent term, subject to approval by the Chancellor if the stipend will exceed the maximum for the range, if required for the level of the resulting salary, or if for a Management Group position or a position which reports directly to the President. Stipends are not affected by across-the-board increases. Payment of a stipend may also be appropriate for titles other than those identified above.

EXAMPLES of situations in which payment of a stipend is appropriate:

Appointment as Chair

A faculty member who serves a term as chair is paid a stipend in addition to the base salary as a faculty member. The stipend is compensation for the administrative duties. The stipend is normally in addition to a reduced teaching load. Stipends for chairs who are in the faculty unit are determined by Article 13 of the AFUM contract.

Some positions with titles other than chair operate in a similar fashion, as described below under "Positions which rotate."

Acting or interim appointment

An employee may be appointed to a position in an acting or interim capacity. If the appointment is for less than one work year, the stipend is a temporary one. If the appointment will continue for one work year or more, the stipend will be regular for the term of the appointment. Instead of compensating with a stipend, an acting appointment may carry a salary appropriate to the position being held. At the end of the appointment, the salary reverts to the previous salary, adjusted by generally applied increases which have occurred in the interim.

Positions which rotate

Some positions other than chair rotate on the basis of term appointments. For some positions as assistant or associate dean, faculty are appointed for a term of one or more years with the intention that the position will be filled with another faculty member at the end of the term. Compensation for the added duties in this situation should be in the form of a stipend, so that the amount is kept separate from the faculty salary.

University administrative policy states that a stipend is for the duties of the position year-round unless otherwise specified. This means that a stipend added to an academic year appointment carries fiscal year administrative duties. If summer salary (earnings code 211 or 212) will also be paid for summer effort, that should be clearly stated at the time of the appointment in a letter of appointment and in any materials submitted for Chancellor approval.

Other positions which rotate may have titles such as director (e.g. director of an interdisciplinary program or a research laboratory) or coordinator (e.g. graduate program coordinator within an academic unit).

Named professorships

The Board of Trustees has approved a number of named and endowed professorships, including the Libra professorships. Appointment to one of these professorships carries a stipend, which is paid from a restricted account specifically for support of the professorship. If an individual who is not a University employee is paid a salary for short-term service as a named professor, the pay should be considered regular, base pay. A stipend is appropriate when it is in addition to salary for a University employee. If an individual is paid an honorarium for limited service as a named professor, the campus should determine whether payment should be as an employee or independent contractor, using the standard criteria.

Additional duties for a fixed period of time

Occasionally an employee is assigned added duties for a fixed period of time. For example, an employee might be given some responsibilities of a vacant position without being appointed to the full position in an acting capacity. A stipend is appropriate in this situation. When the vacant position is filled, the stipend is discontinued. If the vacant position is not filled and the duties are permanently assigned to the employee with the stipend, a salary adjustment or reclassification should be considered to replace the stipend.
Upper level administrators, in titles such as Dean and Vice President, should not ordinarily be given stipends for this circumstance. The base salary for these positions is compensation for the position, including changes in assignment resulting from short-term needs or reorganization. If a major change in the level of responsibility occurs, a salary adjustment or stipend for a specified term may be considered.

Appointments as Dean, Director, or Vice President

The Handbook for Non-Represented Faculty and Salaried Staff states that “The base salary of senior administrators holding academic rank may include a specifically identified administrative duty stipend.”

The policy also states “Alternatively, senior administrators holding academic rank may be compensated in the administrative position by a salary without a stipend. When such an appointment is approved, the Chancellor and/or the appropriate campus President shall also identify in writing a salary amount which will serve as the basis for determining the individual’s subsequent salary when leaving the administrative position and returning to a faculty or other position.”

Additional Compensation (Not considered stipend)

Exempt Employees

Exempt employees can be paid additional compensation as a flat fee or lump sum, however additional hours worked must be reported to payroll to monitor compliance with the Patient and Protection Affordable Care Act.

Qualifying Extra Effort

Review Article 14 in the UMPSA contract for more information on work year and work schedule. Keep in mind that additional duties or responsibilities can be within the scope of a professional job and that extra pay is not always warranted. Supervisors are asked to carefully and thoughtfully provide additional compensation for extra effort since it requires judgment so as to pay extra only in a way that will be seen by others as being clearly deserving. Qualifying pay for extra effort must meet the following conditions:

1. Situations that are more than the normal fluctuations and occasional spikes in workload that are commonplace in exempt positions
2. The nature of professional status is such that the specific number of hours of work are less important than the responsibility for a body of work (and individual differences mean that different people may take a longer or shorter amount of time to perform well). Use a best estimation of the extra hours beyond normal for the average employee that the “extra effort” represents.
3. Additional compensation may not be provided if the employee will have already or will in the future receive paid time off from work to offset this extra effort (e.g., huge project requiring significant extra work time this week but will work fewer than normal hours next week)

Extra effort pay is calculated as follows:

1. If the extra work is in one’s own position (or one at the same salary band), the appropriate amount of additional pay would be determined by extrapolating from the person’s normal pay. (Example: the supervisor wishes to pay for 20 extra hours of work. The person’s salary is $41,600 which, were it paid hourly, would equal $20/hour calculated from $41,600/2080 hours in one year. Therefore, an appropriate amount would be about $400 ($20 times 20 hours).
2. If the extra work is also of a clearly higher level than what reasonably be expected from one’s own position, it would be appropriate to pay in the range of 5-10% extra. In the example above, if the supervisor believes that the extra work is of a type usually performed by people one salary band higher, s/he might conclude that $440 is a reasonable figure (if two salary bands higher, perhaps $480, etc.).

Duties Performed of Higher Level Exempt Title (Out-of-Title)

Qualifying out-of-title pay must meet the following conditions:

1. work has clearly been of a higher complexity/responsibility level than would reasonably be expected from one’s own position
2. there is a genuine view that, should the duties being performed be permanent, the position would almost certainly be rated as having met the “significant increase in duties and responsibilities” test under the professional salary system
3. this is more than taking on only a small portion of a higher position, or only those parts that are not significantly more demanding than one’s own position
4. a general rule of thumb is to pay an extra 5-10% if the duty set is typical of positions one salary band higher, and 10-20% if two bands higher

How “out-of-title” pay is calculated:

1. If fully taking on another position, it is appropriate to use as a general rule an amount of 5-10% higher than one’s current salary. For example, if one is taking over a position one salary band higher, and the normal salary is $4,000/month, a reasonable amount may be $4,400. If two bands higher, $4,800, etc.
2. If temporarily doing one’s own job for 50% of the time and the higher position for 50%, use a prorated amount.
3. There may be situations where higher or lower amounts may be paid if the department feels it is necessary and appropriate, and results in a reasonable target figure within the higher salary band. In addition, the pay should not exceed that of incumbents already doing that same or very similar work.

Moving/Relocation Allowance or Moving Expense Reimbursement:

There are two types of moving/relocation payments.

1. Use Additional Compensation- Salaried Form to pay an employee a flat amount allowance to cover moving or relocation costs without any submitting any receipts.
Non-Exempt Employees

To maintain FLSA compliance for recordkeeping purposes, all hours worked must be entered in MaineStreet Time and Labor and approved by the appropriate supervisor. **Non-exempt employees must not be paid any compensation as a flat fee or lump sum.** To process pay for additional compensation, a concurrent, secondary, temporary position and job record will be established with an appropriate hourly rate. Specific kinds of additional compensation include:

**Sporadic Work in a Different Capacity**

Employees who already have a primary hourly job and perform *occasional or sporadic* work in a totally different capacity (non-exempt title does not exist), yet with an accepted and reasonable standard fee will not impact overtime. (examples: employee has a primary job as an administrative assistant serving as scorekeeper at sports events, proctoring exams, or serving as a model for the art program)

The term "*occasional or sporadic*" means infrequent, irregular or occurring in scattered instances (see 29 CFR 553.30). If an employee works a temporary job for the same month every year, it is not sporadic; if it's just a month with no plans to continue, that could be considered sporadic.

**Work in a Similar Capacity**

Work performed in a *similar capacity* such as an administrative assistant performing administrative duties in a different department would not be considered Additional Compensation and should be set up as a secondary, temporary appointment as a non-exempt job. Hours worked would be reported on a timesheet and if the employee works more than 40 combined hours in one week in both jobs, overtime would be calculated using a blended or average rate.

**Extra Work at Higher Non-Exempt Title**

Out-of-title pay should be paid when work at a higher title meets the following conditions:

1. Work is assigned by the supervisor.
2. Work is continuous and for a sufficiently long period to qualify (COLT and Non-Rep, one week; Service & Maintenance, 5 hours)
3. Must perform duties of the higher title for at least 35% of total work time to be considered to meet out of title requirement
4. Work is higher in complexity/ responsibility than that expected in one's own position.

Hourly rate of pay calculated as follows:

1. If the work is at a higher represented classified title, those hours worked are paid at the step that gives at least a 5% increase.
2. If the work is at a higher non-represented classified title, those hours worked are paid at least at the AI step, and more if necessary to provide an increase of between 5-10%.
3. If the hours are at a professional level, the department has considerable latitude, but would normally be at least the minimum of the professional salary band for similar work, and not more than that being paid professional employees doing the same work.

**Non-Exempt Doing Professional Exempt Level Work**

FLSA indicates that the primary duty of the position, generally defined as at least 50% of total work effort, must be of a level of responsibility or complexity as defined by the Act to be of a exempt level. That means that some overlap may exist in the duties and activity of our exempt and non-exempt employees, particularly between our highest classified titles and our more entry level professional positions. The distinctions between a particular exempt and non-exempt position may be at the strategic level (budget planning, official supervision of several other employees, responsibility for development of policies and procedures), and those types of responsibilities are often not the ones that would be taken on by a non-exempt employee. The key is whether a significant percentage of the work taken on is the type of work generally associated with exempt status. Work must meet these conditions:

1. must perform duties at the professional level for at least 50% of total work time
2. pay would normally be at least the minimum of the professional salary band for similar work

**Students**

All paperwork should be completed on or before the first day of work or service. Hourly students should be entering time worked on their MaineStreet timesheet. This includes students working on grant funded programs. A student work authorization should be supplied to the payroll office for each grant program for which the student is performing the work. The student should report time specific to that grant on the MaineStreet employee record relating to that grant or job.

Student employees are covered by the Fair Labor Standards Act (FLSA) which covers minimum wage and overtime regulations. A student who is paid by the hour, must be paid by the hour for all jobs within UMS.

One-time reimbursements or payments to student workers pertaining to their education (i.e. theater students who get reimbursed for expenses related to working with local kids on a play) need to be paid through accounts payable, not payroll.
Graduate Assistantships

Graduate Assistantships are Exempt jobs meaning the students do not record time in MaineStreet. In the case of a Graduate Assistantship, all graduate jobs and all additional compensation must indicate the maximum number of hours that the student will be working per week. Departments must adhere to the assigned standard hours limit stated on the payment document for Payroll. This will allow the Payroll Department to monitor compliance with FLSA for departments and position Payroll to alert departments if a combination of jobs will exceed 40 hours per week.

RELATED INFORMATION

Other Administrative Policies

Administrative Practice Letter: APL VII-H Guidelines for Determining Employees or Independent Contractor Relationships
University of Maine System Policy Manual – Board of Trustees: Section 404 Personnel Appointments

Forms and Process Documents

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