Attachment A

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

- 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).
- Any hours worked beyond 40 in a workweek must be compensated at time and one-half (either by pay or compensatory time (“comp time”) as determined by the supervisor.
- The value of meals or lodging received must be added to an employee’s regular hourly rate to determine an overtime rate of pay.
- All compensation, including stipends, must be added to a non-exempt employee’s regular hourly rate to determine an overtime rate of pay.
- There should be specific permission requested and authorized each time from the employee’s supervisor before beginning work early (i.e., 7:45) or working late or during lunch. Any time worked beyond 7.5 hours per day, even if it is “just to finish up” must be paid as overtime.
- Time cannot be volunteered. A non-exempt employee must receive pay or comp time for all hours worked.
- A supervisor is in violation of the law if a non-exempt employee is permitted to work extra time without compensation.
- The FLSA states that an employee does not have the right to refuse overtime.
- A supervisor has the right to schedule comp time instead of paying overtime. If this is done within the same workweek, it is given off at equal time. If comp time is given off within the pay period, though not within the same workweek, it is at time and one-half for any hours worked beyond 40 in a workweek.
- In determining whether to pay extra hours at straight time or overtime, time actually worked plus holiday hours are counted. Examples are shown below:

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5.0 sick leave
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.

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(holiday)

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.

Non-exempt employees have an obligation to immediately notify the Office of Human Resources if they feel these guidelines are not being followed. The employee should call the Office of Human Resources at 423-439-4457 or go to Burgin Dossett Hall, Room 307.

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Source: TENNESSEE BOARD OF REGENTS, Guideline P-020, Procedures for Implementation of the 37.5 hour Work Week and Compliance with the Fair Labor Standards Act (FLSA) Overtime Pay Provisions; Revised by President’s Council, March 16, 2011