

March 2014

3.3 Other Types of Pay for Non-Exempt Employees

Saint Mary's College of California

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Recommended Citation

Saint Mary's College of California (2014) "3.3 Other Types of Pay for Non-Exempt Employees," *Staff Handbook*: Vol. 2014 , Article 36.

Available at: <http://digitalcommons.stmarys-ca.edu/staff-handbook/vol2014/iss1/36>

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3.3 Other Types of Pay for Non-Exempt Employees

3.3.1 Overtime

Overtime is paid to *non-exempt* employees under the following conditions and at the following rates:

- Employees who work more than 8 hours but fewer than 12 hours in one day, or more than 40 hours per week, will be compensated for the excess hours at the overtime rate of one and one-half times the employee's straight time hourly rate of pay, beginning after the 8th hour in a day or after the 40th hour in a week.
- Employees who work more than 12 hours per day are paid for hours beyond 12 at the overtime rate of two times the employee's straight time hourly rate of pay.
- While California law requires that for non-exempt employees, any hours worked in excess of 8 hours a day or 40 hours per week must be paid at the appropriate overtime rate, Saint Mary's has historically and is currently voluntarily paying overtime to non-exempt administrative employees overtime for hours worked in excess of 7.5 hours per day or 37.5 hours per week.
- All overtime must be authorized in advance and in writing by the supervisor.
- Employees on an approved (by the Department of Labor) alternative work-week schedule shall be subject to the applicable overtime rules associated with the alternative schedule.

Non-exempt employees are required by law and Saint Mary's policy to report all hours worked accurately and honestly. Failure to do so can lead to discipline or termination. Supervisors are also required to verify the hours worked and will be held personally responsible for any approvals that may be recorded in error.

3.3.2 Rest Periods

Non-exempt employees working more than four (4) hours per day are entitled to a paid rest period of 15* minutes for each four hours worked (or major portion thereof). For employees who start work in the morning, the breaks should be taken mid-morning and mid-afternoon. Rest periods should be scheduled with the employee's supervisor's approval.

NOTE: Rest breaks may *not* be combined with or added onto meal breaks, even at the employee's request. Nor can an employee use them to come in 15 minutes late or leave 15 minutes early in lieu of taking breaks.

*While California law requires only 10-minute rest breaks for non-exempt employees, Saint Mary's practice is to provide rest breaks of 15 minutes for each four hours worked.

3.3.3 Meal Breaks

Non-exempt employees working more than five hours per day are required to take a meal break of at least 30 minutes in approximately the middle of their work day. If six hours completes the work day, the meal break may be waived by mutual consent of the employee and supervisor, in writing. Meal breaks must be free of any work duties, and should not be taken at the employee's desk. Meal breaks are unpaid and should be scheduled with the supervisor's approval.

NOTE: rest periods and meal breaks may not be used to extend the employee's starting time nor advance departure time.

3.3.3.1 Failure to Provide or Take Meal and Rest Breaks

California employers are required to provide rest periods and meal breaks for non-exempt employees as described above. Failure to provide or to take the rest breaks and meal breaks described above may result in disciplinary action.

3.3.4 Travel Time

With the exception of travel from home to work and back (commute), most travel time for non-exempt employees is considered work time. However, because travel time does not require the use of an employee's skills, pay for travel time may be at a rate that is less than the employee's normal rate of pay (at least minimum wage). For assistance in setting the appropriate rate for travel, consult with the Director of Employee Relations & Compensation.

NOTE: When travel time is counted as work time, overtime may be due for applicable travel.

For those non-exempt employees traveling to a distant work place (out-of-area/state, conference, etc.) travel pay begins when she/he leaves to go to the airport, and ends when the employee arrives at the out-of-area hotel or meeting location. Upon return, work time begins when the employee leaves the meeting or hotel for the out-of-area airport and work time ends when the employee arrives at the home airport. For further detail, refer to Human Resources.

3.3.5 Call-in Pay

When a non-exempt employee is called in to work on a day other than his/her normal work schedule, the employee receives at least two (2) hours at the applicable hourly rate, even if the employee is not needed for the full two hours.

Call pay for an exempt employee is considered part of the exempt employee duties and is not compensable.

3.3.6 On-Call / Standby Pay

“On-call” time is not compensable if the non-exempt employee can use the time primarily for his/her own benefit. If a nonexempt employee is “on call” or required to carry a cell phone or similar device, the on-call time is normally not compensable unless the employee is required to stay at home or at work, there are geographic restrictions placed on the employee's movement or there are other limitations on the employee's ability to use the time for personal use, in which case the on-call time may qualify as hours worked. For clarification, see the Director of Employee Relations & Compensation.

Section 3 – Working at Saint Mary's College

On-Call/Standby Pay for an exempt employee is considered part of the exempt employee duties and is not compensable.

3.3.7 Shift Differential Pay

The law does not require differential payment for shifts worked other than the employer's normal hours. However, the College has determined that those non-exempt employees working a regular schedule of 3:30 pm to midnight (swing shift) will be paid an additional 5% of their normal pay, and those non-exempt employees working a regular schedule of midnight – 8:30 am (graveyard shift) will receive an additional 10% in pay. Variations of these schedules must be approved by Human Resources.