

Memorandum of Agreement # 93
Compensatory Time for AFT Professional Staff in
“Exempt” Job Titles at the College of New Jersey

In order to promote amicable employer-employee relations, Local 2364, AFT (“the Union”) and The College of New Jersey (“the College”) hereby agree to the following terms and conditions whereby AFT Professional Staff in “exempt” job titles will earn and use compensatory time.

The main premise of this Memorandum of Agreement is that the term “exempt” does not mean that an employee should be expected to work for an unlimited number of hours per week, whether an extended workday, on days when the College is normally closed or on weekends.

There is adequate support for this position beyond the above N.J.A.C. definition. In the regulations of the Department of Personnel covering professional staff in NL positions, NL is contrasted to fixed workweeks of 35 and 40 hours. Exempt titles are one salary range higher than 35-hour workweek titles and one salary range lower than 40-hour workweek titles. Exempt does not mean that an employee can be asked to work so much extra time on a regular basis that he or she ends up in the 40-hour workweek category. The standard workweek for most professional staff is 35 hours and deviations beyond that are the exception and not the rule.

Furthermore, consistent with basic fairness and the principle that people should be paid for the work that they do, when employees are required to put in extra work time, they must be compensated for the extra work that they do. For employees in exempt titles, that should be in the form of compensatory time off. This too is provided for in the New Jersey Annotated Codes (N.J.A.C.) in 4A:3-5(d)-2, which provides in pertinent part:

“Employees in non-limited titles (NL, NE) who meet unusual work time requirements may, at the discretion of the appointing authority, be compensated through either a provision for flexible work patterns or a grant of comparable amounts of time off to a maximum of one hour for each hour of unusual work time...”

Thus, the regulations provide, at a minimum, that compensatory time is an appropriate way of dealing with unusual work time requirements. This means that a college/university may not unreasonably deny compensatory time and has the authority to grant it on an hour for hour basis.

1. For the purposes of this policy, immediate supervisor shall be construed as that supervisory, management level person in the College unit who is first reached in the normal chain of command leading from the employee.
 2. For the purposes of this policy, unusual work time requirements are extra hours worked beyond the employee’s normal assigned work schedule, whether on a work day, on an official College holiday or office closing day, or on a weekend.
- A. Eligible Employees

An employee in an exempt job title who performs unusual work time requirements may be compensated through compensatory time off. In circumstances where it is unclear whether time worked is eligible for compensatory time, contact the Human Resources Office for clarification.

B. Notice of Unusual Work Time Requirements

1. When an employee is required to perform unusual work time requirements, the immediate supervisor shall inform the employee in writing of the requirement as soon as possible in advance of the date and, unless impossible due to operational needs, at least one work week in advance.

2. An employee who works unusual work time requirements shall not be eligible for compensatory time unless written approval is given by the employee's immediate supervisor when the assignment is agreed upon.

C. Earning Compensatory Time

1. Approved compensatory time off shall be calculated at an hour for hour rate.

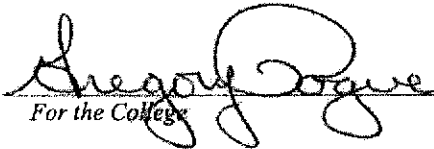
D. Arranging for Compensatory Time Off

1. Compensatory time off shall be taken within sixty (60) working days of accrual unless otherwise agreed to by the employee and the immediate supervisor.
2. The scheduling of compensatory time off shall be by mutual agreement of the employee and the immediate supervisor and must not conflict with office operations.
3. Compensatory time off from work must be requested and approved in writing by both the employee and the immediate supervisor.
4. If the employee and the immediate supervisor cannot agree on a time for the use of compensatory time, the employee may request that the next level supervisor or manager assist in scheduling the time off. If no agreement on the use of compensatory time off is reached, the employee or supervisor may request the assistance of Human Resources.

E. Recording Compensatory Time Off

1. Both the supervisor and employee shall maintain a record of compensatory time accrued and used.
2. All requests for employees to work unusual work time requirements shall be in writing with a copy maintained by the supervisor and employee.
3. In the event the employee transfers from one work unit to another, the employee must be permitted to either use the accrued compensatory time before the transfer or to use the compensatory time in the new assignment.
4. In the event of an employee's separation from the College, all recorded accrued compensatory time shall be used prior to the effective date of separation.
5. The employee shall not be entitled to a payment for unused compensatory time.

- F. This agreement shall automatically be renewed unless either party shall give to the other written notice of its desire to terminate, modify, or amend this agreement, no later than June 1st. In such case, this agreement shall either be renegotiated by December 31st of the year in which notice is given or be terminated on that date.


For the College

Date

7/14/11


For TCNFT, Local 2364, AFT

Date

7/26/11