

# Premium Pay Procedures

## Overview

Premium pay, such as shift differential and on call pay, is available for certain approved jobs at the University. Eligibility is tied to the university job code of the employee's current job slotting. The approved list of shift differential and on-call rates and job codes is maintained within VCU HR and is accessible to HR Professionals. These procedures provide definitions of each type of premium pay, outline the circumstances under which management may utilize premium pay, as well as define eligibility criteria and implementation procedures.

## Definition of terms

- **Authorization:** School/unit senior management or their designees are responsible for identifying the business need to have certain positions compensated with premium pays in order to maintain critical business operations.
- **Fair Labor Standards Act (FLSA):** Federal law establishing overtime pay, minimum wage and child labor requirements affecting full-time and part-time employees. Overtime pay at a rate of not less than one and one-half times the regular rate of pay is required for all hours actually worked beyond forty in a workweek for those employees covered by the Act (non-exempt).
- **Exempt employee:** An employee who is exempt from the overtime provisions of the FLSA.
- **Non-exempt employee:** An employee who is not exempt from the overtime provisions of the FLSA and must be compensated at a rate of one and one-half times their regular rate of pay for hours actually worked in excess of forty (40) in a workweek. All hourly wage employees are non exempt.
- **Scheduled workweek:** An employee's scheduled workweek includes the hours of the day and the days of the week the employee is regularly scheduled to work.
- **Standard workweek:** The University standard workweek (for payroll purposes) begins at 12:01 a.m. Sunday and ends at 12:00 midnight the following Saturday.
- **Premium pay:** A pay adjustment based on a business need to compensate staff for shift, on-call status, and other factors. Premium pay is not required by the FLSA. There are three types of premium pay in use at the University:
  - **On-call pay:** A management option of payment for time that employees are waiting to be engaged to work. During such time, the employee may engage in personal business while remaining both available to work and in a capacity that is fit for duty should they need to respond to agency business. If an employee only has to identify how they can be contacted (e.g. by cell phone) so that they can engage in work activities when called, the employee is considered unrestricted. A

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supplement may be provided for employees serving in an on-call status if the business need dictates.

- **Call back rate:** A management option of payment of a minimum number of hours which may be provided to employees who must return to work between regularly scheduled shifts.
- **Shift Differential:** A management option of applying a premium to the hourly rate for employees working certain difficult-to-fill shifts.

## Eligibility

Premium pay eligibility is tied to an employee's job code. VCU HR maintains the list of approved staff job codes that are eligible for premium pay, including on-call pay and shift differential. In certain situations where continuity of operations is imperative, exempt employees in approved job codes may be eligible for on-call pay.

Typically, only non-exempt employees are eligible for on-call, call back pay, and shift differentials. In certain situations where continuity of operations is imperative, exempt employees may be eligible for on-call pay.

- **On-call eligibility**
  - In general, managers must use their judgment when assigning on-call status to employees on leave. Managers are encouraged to provide employees with true breaks from work while on vacation, and therefore discouraged from assigning on-call status during these times.
  - Employees on light duty assignments are ineligible for on-call assignments.
- **Shift Differential eligibility**
  - Employees do not receive shift differential while on leave or for non-working holiday.

## Maintenance

In consultation with VCU Human Resources, the need to provide premium pay is determined by the school/unit. The VCU HR Workforce and Compensation Team periodically reviews the continued business need for premium pay for each approved job code. Should a business need arise to establish new premium pay rates or change existing rates, managers should consult with their HR Professional, who may in turn consult with a member of the VCU HR Workforce and Compensation Team.

## Procedures

### On-call

- Employees on-call must be fit for duty and arrive alcohol/substance free, within timeframes determined by management.

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- Disciplinary action up to and including termination may be taken if an employee cannot be contacted while on-call, or does not respond to call as described above;
- Any mitigating circumstances will be taken into consideration when determining disciplinary action.
- In determining the number of on-call hours paid during a workday, management should exclude the hours the employee worked, along with any provided meal breaks. For example, an employee who works an 8 hour shift with a 30 minute lunch break would be compensated with 15.5 on-call hours.
- An employee assigned to weekend and holiday on-call status will receive payment for 24 on-call hours.
- If an exempt employee responds to a call, the on-call supplement continues and no further payment is provided.
- Employees are notified in writing in advance of being subject to on-call status.

### Call Back

- The University has established the following standard provisions for call back:
  - 4 hour minimum if returning to the work-site
  - 2 hour minimum if responding remotely (e.g. IT staff who can access and troubleshoot systems remotely).
  - The call-back rate is paid at the non-exempt employee's regular rate of pay or at the overtime rate for any time over forty (40) hours actually worked in a work week. Exempt employees are ineligible for call-back pay.
  - Call-back status begins at the point when the employee returns to the work site or, if responding remotely, responds to the call.
  - The Call-back time guarantee covers any subsequent requests/calls that may be made during the initial 2 or 4 hour period.
    - Example scenario: An employee reports in to a call-back at 8:00 AM on a weekend and the work is completed by 8:30 AM. At 9:30 AM, the employee reports back to work based on a second call, and this work is completed by 10:30 AM. All of this work is covered by the initial 4 hour call-back guarantee. A third call-back to work at 12:30 PM would "restart" the call-back clock with a second 4 hour call-back provision.
  - The call-back time guarantee does not overlap with an employee's regularly scheduled shift.
    - Example scenario: If an employee works a day shift starting at 7:30 AM and the employee receives a call at 6:00 AM, the employee will not receive the four hour minimum call-back pay. The employee will be credited with 1.5 hours of additional time, paid at overtime rates if the employee actually works more than 40 hours in a workweek.

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### Shift Differential

- Business units determine the specific start/stop times for evening, night, holiday and weekend shifts.
- Employees assigned to day shift who are asked to work over their assigned shift are ineligible for shift differential.
- Employees who work a second shift in addition to their assigned day shift will receive shift differential on the second shift.
- Employees that are designated Essential and work hours other than their regularly assigned day shift are ineligible for Shift Differential.

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