



Institutional Handbook of Operating Procedures
Policy 03.04.02

Section: Human Resources Policies	Responsible Vice President: Vice President and Chief Human Resources Officer
Subject: Exempt Employees	Responsible Entity: Human Resources

I. Title

Fair Labor Standards Act regarding Deductions from Salary of UTMB Exempt Employees

II. Policy

Certain employees of UTMB are classified as “exempt” under the overtime provisions of the Fair Labor Standards Act or State law by virtue of their job duties and level and type of compensation. Generally, these employees are compensated with a fixed salary paid on a biweekly or monthly basis. UTMB exempt employees’ salaries are intended to include compensation for all hours worked. UTMB pays its exempt employees on a salary basis and will not make deductions that are prohibited by the Fair Labor Standards Act or state law.

The University of Texas Medical Branch, in compliance with applicable federal laws and regulations, strives to maintain an environment free from discrimination against individuals on the basis of race, color, national origin, sex, age, religion, disability, sexual orientation, gender identity and expression, genetic information, or veteran status.

UTMB strictly prohibits retaliation against any employee for making a complaint of violation of this policy or for participating in the investigation of such a complaint. Employees who engage in retaliation in violation of this policy will be subject to discipline, up to and including termination of employment.

III. Permissible Deductions from Salary

- A. Principles of public accountability, which apply to state governmental units such as UTMB, permit certain deductions from an exempt employee’s salary while prohibiting others.
- B. Pay may be docked from an exempt employee’s salary under the following circumstances:
 - 1. One or more full day absences for personal reasons, other than sickness and disability.
 - 2. One or more full day absences because of sickness or disability (including work-related accidents) if such deductions are made under a bona fide plan, practice or policy of providing compensation for loss of salary occasioned by such sickness or disability.
 - 3. Offset any amounts received by an employee as jury fees, witness fees or military pay.
 - 4. Penalties or suspensions imposed in good faith for violations of safety rules of major significance.
 - 5. Unpaid disciplinary suspensions of one or more full days imposed in good faith for violations of written workplace conduct rules.
 - 6. Portions of the first and last weeks of employment that an employee does not actually work.
 - 7. Unpaid leave under the Family and Medical Leave Act (FMLA), including intermittent or partial day leave.

- 8. An exempt employee need not be paid for any work week in which he or she does no work at all.
- 9. Under the accrued leave policy for absences, including absences less than a full day, for personal reasons, sickness, disability or injury when accrued leave is not used because: (i) permission for its use has not been sought or was denied; (ii) accrued leave has been exhausted; or (iii) the employee chooses to use leave without pay.

C. Deductions from an exempt employee’s salary for variations in the quality and quantity of work are *not* permitted.

IV. Improper Deductions from Salary

- A. For circumstances outside of the permissible deductions, a supervisor should consult with their department’s Human Resources Employee Relations Advisor for guidance before docking an exempt employee’s pay.
- B. Improper deductions are a serious violation of UTMB policy. UTMB encourages all employees to report any alleged improper deductions from an exempt employee’s salary immediately and pursuant to the complaint procedure described below.
- C. If an exempt employee believes that improper deductions have been made from his or her salary, the employee should immediately contact his/her Human Resources representative or the Office of Institutional Compliance.

V. Complaint Procedure

Upon receiving a complaint, UTMB will conduct a prompt investigation of the alleged improper deduction from salary. UTMB will take corrective action when it has reason to believe that, based on its investigation; there has been a violation of this policy. UTMB may impose appropriate disciplinary measures upon any employees responsible for the improper salary deductions. If UTMB finds that improper deductions were made from an exempt employee’s salary, UTMB will reimburse the employee for the improper deductions and will renew its commitment, in good faith, to comply with the requirements of this policy in the future.

VI. Questions or Concerns from Employees

If an employee has a question regarding this policy or how it relates to vacation, holiday, disability or any other leave or any company benefits and policies, the employee should consult his/her Human Resources Employee Relations Advisor.

VII. Definitions

UTMB Personnel: All faculty and staff.

VIII. Dates Approved or Amended

<i>Originated: 10/17/2008</i>	
<i>Reviewed with Changes</i>	<i>Reviewed without Changes</i>
09/07/2012	06/28/2016
03/10/2020	

IX. Contact Information

Human Resources – Employee Relations
(409) 772-8696