

Timekeeping and the FLSA: A Guide to Your Responsibilities

This guide will provide you with information on timekeeping policies, practices, and tools used at The University of Arizona. It will also provide you with an overview of the Fair Labor Standards Act (FLSA) and its requirements which influence timekeeping responsibilities for employees, supervisors, and payroll/business representatives.

The University is committed to ensuring that each employee is paid the right amount at the right time for work performed. Each member of the University community plays a key role in achieving this goal.

The Importance of Proper Timekeeping

There are several reasons why all members of the University community care about accurate timekeeping.

- Paying employees accurately and timely
- Monitoring and managing employee attendance
- Providing necessary information for financial and accounting records
- Meeting timekeeping (effort reporting) requirements for grants/contracts
- Complying with federal and state laws

What Happens Without Proper Timekeeping?

The following discrepancies have been found at the University during audits by University, state, federal, and grant/contract auditors.

- Differences between department records and payments made through central payroll
- Misclassification of employee eligibility for overtime compensation
- Late payments to employees
- Neglecting to record paid or unpaid leave time when the employee is not at work
- Inaccurate payments to employees related to
 - 1) When to compensate with cash overtime and when to compensate with accrual of compensatory time off
 - 2) When to compensate with overtime at time and one-half and when to compensate with overtime at straight time (regular pay rate)
 - 3) Incorrect use of earning codes and leave codes
 - 4) Differences between the hours reported on the time record and the hours the employee worked

By understanding timekeeping requirements of the Fair Labor Standards Act, you can help prevent such occurrences.

What Is the Fair Labor Standards Act?

The Fair Labor Standards Act (FLSA) is a federal law originally passed by Congress in 1938 during a period of economic depression to address the lack of employment standards. Congress has amended the law many times. The U.S. Department of Labor administers the FLSA.

The FLSA addresses a variety of employment areas.

- The federal minimum wage
- Appropriate labor by minor children
- The forty-hour work week
- Recordkeeping requirements

Audits by the U.S. Department of Labor

The U.S. Department of Labor (DOL) may choose to audit an employer's payroll records because

- it has received complaints by current or former employees;
- it suspects or has determined that certain industries (grocery stores, manufacturers, school districts, etc.) may have widespread irregularities; or
- the employer has been selected randomly.

DOL Audit Consequences

FLSA violations can seriously impact the financial health of the employer, as well as its reputation among its employees and the general public.

Help your colleagues, your department, and the University avoid these potential consequences from a DOL audit.

- Back pay and interest – Payments to the employee for any time that was not accurately reported as time worked, plus any applicable back overtime compensation and interest.
- Legal fees – Employer and plaintiff attorney fees, witness fees, etc.
- Civil penalties – Fines up to \$1,000 per violation (i.e., each work week's occurrence for each employee).
- Criminal penalties – Fines up to \$10,000 and/or six months imprisonment for willful, repeated violations.
- Personal liability for managers/supervisors - Federal lawsuits against an individual manager/supervisor for willful/repeated violations.

DOL Audits at The University of Arizona

At The University of Arizona, the employing unit is responsible for paying all FLSA violation remedies, including back pay, fees, fines, and penalties.

The University has experienced two major audits by the Department of Labor since 1998 resulting in payments of approximately \$50,000.

FLSA Timekeeping Components

There are five major components of FLSA timekeeping.

- Employment categories subject to specific provisions of the law
- The forty hour work-week
- Compensable time (work time)
- Overtime compensation
- Recordkeeping obligations

FLSA Employment Categories

The FLSA categorizes all workers either as covered or exempted from the Act's overtime provisions.

"Nonexempt" Employees share four characteristics:

- are "not exempt" from the overtime provisions of the FLSA;
- are paid an hourly rate, or wage, for every hour worked;
- perform work that does not meet the FLSA exemption tests; and
- earn compensatory time off or overtime pay for each hour worked in excess of 40 hours per work week.

"Exempt" Employees share five characteristics:

- are "exempt" from the overtime provisions of the FLSA;
- perform executive, administrative, professional and other specific duties;
- are paid an annualized amount, or salary, for performing the whole job, not for every hour worked;
- do not track, record, earn or receive overtime compensation; and
- must be paid a regular salary of at least \$455 per work week, with few exceptions such as teachers, physicians, and attorneys.

What Is a Work Week?

- A work week is defined as 168 consecutive hours used by an employer for payroll purposes. The University work week begins at 12:01 a.m. Monday and ends at 12:00 midnight Sunday.
- There are two work weeks in each University pay cycle.
- The work week is the basis for calculating regular time and overtime for nonexempt employees.
- Nonexempt employees cannot average or transfer hours across work weeks. Each work week stands alone when reporting hours.

The Work Week and Overtime

The University has additional factors affecting overtime compensation.

- A job's assigned Full-Time Equivalent (FTE) determines the employee's regular work hours in a work week (e.g., .5 FTE = 20 hours/week; 1.0 FTE = 40 hours/week).
- When nonexempt employees work in excess of their FTE in a work week, they earn overtime compensation for that work week.
- Overtime hours must be recorded in the same week they are worked.

What Is Compensable Time? (Work Time)

Because nonexempt employees must be compensated for every hour worked, it is important to know what is considered compensable time. The FLSA defines compensable time as time that an employee is required or permitted to work for the employer.

Some aspects of compensable time have created FLSA timekeeping questions.

- Meal periods
- Rest / Break periods
- Training time
- Travel time

Meal Periods – For most employees, the University provides for a one-hour unpaid meal period each 8-hour workday. Under the FLSA, meal periods of at least 30 minutes long are not compensable time if the employee is relieved completely from duty.

Rest Periods – Unit management has the authority, but is not required, to establish and permit paid rest periods for nonexempt employees of up to 15 minutes each four-hour work period.

Training Time – Generally, if a nonexempt employee is permitted or required to attend training during regular work hours, the time is compensable time.

Travel Time – In general, nonexempt employees should be compensated for all travel time unless it is overnight and outside of regular working hours and on a common carrier where no work is performed. Normal commuting to and from work is not considered compensable time.

Determining an Employee's FLSA Exemption Status

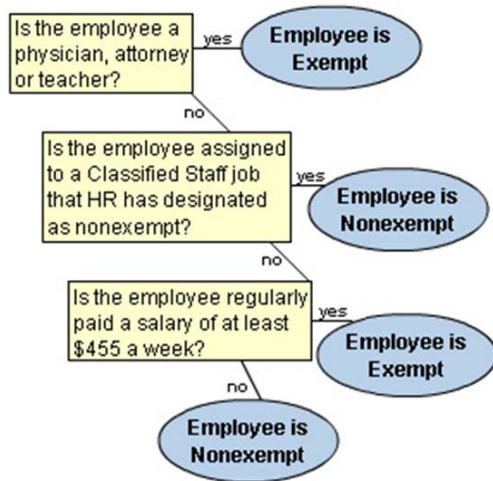
The FLSA has established a salary basis test, a job duties test, and a weekly salary level, which are all used to determine an employee's FLSA exemption status. The employee and supervisor should both know this status, so that timekeeping expectations may be clearly communicated.

To ensure that all three tests are considered when determining the FLSA Exemption Status, the University has established both a Job Title FLSA Exemption Status and an Employee FLSA Exemption Status.

Job Title FLSA Exemption Status — Human Resources applies the FLSA duties test and determines a job's exemption status. Some jobs are always nonexempt (such as custodian and secretary). Some jobs are always exempt (physicians, attorneys, and teachers). Some jobs meet the job duties test for exempt status and may be exempt if the employee holding the job meets the \$455 weekly salary level test. The job must also be paid on a salary basis, meaning the employee will receive a predetermined rate of pay for all work performed without regard to the number of hours worked.

Employee FLSA Exemption Status — The employee’s exemption status matches the job’s exemption status in most cases. However, if the job meets the job duties test but the employee does not meet the \$455 weekly salary level test, the employee is considered nonexempt.

This decision tree outlines the steps used by the University to determine the employee’s exemption status.



Overtime

At the University, when a nonexempt employee works more than his/her normally scheduled hours in a work week, the extra hours are categorized as “overtime.”

While the FTE determines normally scheduled work hours, nonexempt employees can work overtime at various FTE levels.

Examples:

- For a nonexempt employee with a .5 FTE, overtime occurs any time the employee works over 20 hours in one work week.
- For a nonexempt employee with a 1.0 FTE, overtime occurs any time the employee works over 40 hours in one work week.

Overtime Compensation Options: *Extra Pay or Extra Time Off*

The University has two options for compensating nonexempt employees who work overtime.

- Overtime pay is compensation in the form of dollar payments in the employee’s next paycheck.
- Compensatory (comp) time is compensation in the form of time off hours that are accrued for future use.

Note: Compensatory time is only available to public sector employers.

Calculating Overtime and Compensatory Time

Each form of compensation for overtime has two methods for calculating rate of pay.

Overtime Pay

1. Straight/Regular Rate = $1.0 \times$ hourly rate
2. Time and one-half = $1.5 \times$ hourly rate

Compensatory Time

1. Straight/Regular Rate = $1.0 \times$ hours worked
2. Time and one-half = $1.5 \times$ hours worked

Applying the correct rate depends on the number of hours worked in the work week and the employee's FTE.

The FLSA requires that nonexempt employees (at any FTE level) who work over 40 hours in a work week must be compensated for each hour worked over 40 with either overtime pay or compensatory time at a time and one-half rate.

Example:

A nonexempt employee works 8 hours each day, Monday through Friday, and 2 hours on Saturday. The employee must receive 2 hours of overtime pay or compensatory time at time and one-half.

Note: Use of paid or unpaid leave time such as holiday, sick or vacation leave is not considered work time, and is excluded from the weekly total of time worked.

The University also provides compensation to nonexempt employees for hours worked over their established FTE, when total work time does not exceed 40 hours in a work week. Straight time is paid at the employee's regular hourly rate.

Examples:

A .50 FTE nonexempt employee works 30 hours in a work week (10 extra hours). The employee would receive 10 hours of either straight overtime pay or straight compensatory time at the employee's regular hourly rate (1.0×10).

A 1.0 FTE nonexempt employee takes 8 hours of sick leave on Monday and then is required to work 40 hours Tuesday through Friday. The employee would receive 8 hours of either straight overtime pay or straight compensatory time at the employee's regular hourly rate (1.0×8).

Managing Overtime and Compensatory Time

Managers and supervisors must balance the work load, staffing levels, and budget; therefore, management has the discretion and responsibility to determine whether additional hours will be compensated by overtime pay or compensatory time.

It is University policy that compensatory time will be the default method for overtime compensation.

Note: Compensatory time carries a future unfunded liability for employing units because it must be paid in full when nonexempt employment ends.

Employees should understand how they will be compensated before working overtime hours.

Overtime/Compensatory Time Authorization

To ensure overtime/compensatory time hours are appropriately worked and accurately recorded/ paid, the following process is strongly encouraged.

Step 1. Request – The nonexempt employee and/or the supervisor prepare a request for the employee to work overtime.

Step 2. Approval – The supervisor must approve the request prior to the employee working any additional hours.

Step 3. Record – The supervisor must approve the online time record to confirm agreement after all hours are worked.

Step 4. Submit – The Time Coordinator ensures the use of appropriate codes on all online time records.

Note: Even if overtime is not approved in advance by a supervisor, the FLSA requires that the hours must be compensated if they were worked. However, if an employee works extra hours without previous supervisory approval, the manager/supervisor may choose to pursue corrective action to ensure the employee only works pre-authorized overtime in the future.