

FLSA TIME REPORTING AND OVERTIME COMPENSATION GUIDELINES FOR UNCLASSIFIED EMPLOYEES

The U.S. Supreme Court has ruled that public employers are subject to provisions of the federal Fair Labor Standards Act (FLSA). Additionally, Oregon employers are subject to state statutes and rules promulgated by the Oregon Bureau of Labor & Industries (BOLI). This document addresses FLSA and BOLI compliance for overtime compensation. Depending on the specific duties assigned to the position, a position is designated as either being FLSA-exempt (not qualified for overtime pay) or FLSA non-exempt (qualified for overtime pay). Depending on the duties of the position, a Faculty Research Assistant or Professional Faculty position may be designated FLSA non-exempt (qualified for overtime pay).

DEFINITIONS

Comp time: Compensatory leave time is leave accrued in lieu of payment for time worked in excess of forty (40) hours in a week by an FLSA non-exempt, unclassified employee. Comp time is accrued at the rate of time-and-one-half up to a maximum accrual of 240 hours at any time.

FLSA: Fair Labor Standards Act, the federal law which governs minimum wage and overtime compensation.

FLSA exempt: Employees who, because of their salary or duties, are exempted from the FLSA requirement for overtime compensation.

FLSA non-exempt: Employees who, because of their salary or duties, are **not** exempted from the FLSA requirement for overtime compensation and, therefore, qualify for overtime compensation.

FLSA overtime: The FLSA defines overtime as time actually worked in excess of 40 hours in a single workweek. Paid leave time is not considered time worked.

OVERTIME ADMINISTRATION FOR FLSA NON-EXEMPT UNCLASSIFIED EMPLOYEES

1. An FLSA non-exempt employee must obtain the supervisor's approval before working overtime. Overtime is defined under the FLSA as hours actually worked in excess of 40 during a single workweek; paid leave time is not considered time worked. An employee cannot waive the right to compensation for overtime. If a supervisor allows an employee to work overtime, even without express permission, the university is responsible for compensating the employee.
2. Unclassified employees in non-exempt positions are eligible for overtime compensation at the rate of time-and-one-half for work performed in excess of forty hours in a workweek. Compensation for overtime worked may be pay or compensatory time off (comp time) at the discretion of the employing department. Departments should be consistent in offering the same compensation choices to all such employees budgeted from the same funding source. Employees who are given comp time in lieu of pay may accrue up to 240 hours. Any overtime worked by an employee who has 240 hours of documented comp time must be compensated in cash. Comp time is to be "cashed out" upon an employee's termination from the university or transfer to another department or work unit. Comp time earned while performing work funded by sponsored research projects should be used during the life of the same project on which it was accrued, if it is expected that the project will cover the cost of such leave. If there are exceptional circumstances that prevent the employee from taking the leave, arrangements should be made with the funding source to agree to an adjustment. Otherwise, the unit will need to cover the costs of the leave time with unrestricted funds.
3. All overtime worked, overtime paid, comp time accrued, and comp time used must be reported on the employee's monthly timesheet.

4. It is up to the employee and the supervisor or unit head to arrange for leave at an appropriate, mutually agreed-upon time.

OVERTIME ADMINISTRATION FOR PART-TIME FLSA NON-EXEMPT UNCLASSIFIED EMPLOYEES

Part-time FLSA non-exempt unclassified employees are governed by the overtime administration for FLSA non-exempt unclassified employees guidelines listed above, and by the following Guidelines for Compensation for Hours Worked in Excess of Contract FTE.

Guidelines for Compensation for Hours Worked in Excess of Contract FTE

1. Some part-time FLSA non-exempt unclassified positions have fluctuating workloads that require an employee to occasionally work beyond his/her contracted FTE. An employee must obtain the supervisor's approval before working beyond her/his contracted FTE in any workweek.
2. Unclassified employees in such positions are eligible for compensation at their straight time rate of pay for hours worked between their contracted FTE and 40 hours in a workweek. Such time is to be compensated with pay. Part-time, non-exempt employees may not be compensated with comp time for hours worked between their contracted FTE and 40 hours in a workweek. Hours worked in excess of 40 must be compensated at the rate of time and one-half; and may be compensated with pay or comp time off consistent with the guidelines above.

OVERTIME ADMINISTRATION FOR FLSA EXEMPT UNCLASSIFIED EMPLOYEES

1. Unclassified employees in FLSA exempt positions are expected to work without regard to overtime.
2. Unclassified FLSA exempt employees are **not** eligible for payment of overtime or comp time (except for work on a holiday as noted below). Part-time, unclassified FLSA exempt employees are to be compensated only for the position's forecast hours (FTE).
3. FLSA exempt employees who actually work on a university recognized holiday are to be compensated at the rate of time and one-half. Compensation may be in the form of pay or comp time at the discretion of the department.
4. FLSA exempt employees may be subject to structured work schedules as set by their supervisors and are required to receive prior approval to be absent from or leave the work area during work hours.
5. FLSA exempt employees who work anytime during the workweek must be paid for the week. However, such payment includes requiring the employee to charge his/her absences to paid leave accruals (e.g., during campus closures at Christmas time or for inclement weather, exempt employees are required to use accrued leave to cover their absences).
6. FLSA exempt employees who are absent from the work place for less than one day normally shall deduct the length of the absence from the appropriate paid leave accruals (i.e., sick or vacation leave). It is recognized, however, that in certain circumstances, the fulfillment of an employee's responsibilities requires longer or more irregular hours than in other situations. In such instances, the department may allow an employee the flexibility to attend to personal business away from work during normal work hours without requiring the use of accrued leave. Exercising this flexibility shall **not** amount to compensating the employee on an hour off for an hour worked basis. Such time away from the work place that is not being deducted from leave accruals shall not be reported on the employee's time and attendance record.

7. FLSA exempt employees who are absent from the work place for part of a week and do not have enough accrued leave to cover the absence, shall not have their salaries reduced for that portion of the absence that is not covered by paid leave. FLSA exempt employees may be disciplined for abuse of leave time (absences or tardiness). Therefore, departments may, and are encouraged to, keep informal accounts of employees' use of leave that is not recorded on time and attendance forms should documentation be necessary due to misuse, or disciplinary issues.
8. FLSA exempt employees are required to report use of accrued leave on time and attendance forms. An exempt employee who has not taken any deductible leave in a month shall sign an unclassified timesheet log attesting to the fact that he/she worked during the month and had no deductible leave.