



# OFFICE OF HUMAN RESOURCES

## FLSA TIME MANAGEMENT FOR NONEXEMPT EMPLOYEES

### What is the FLSA?

- ❖ The Fair Labor Standards Act (FLSA) is a federal law that sets federal minimum wage, overtime pay, and record keeping standards for U.S. employers.
- ❖ By law, FLSA nonexempt FSU employees must receive overtime compensation (usually 1.5 times their regular rate of pay) for time worked over 40 hours in a workweek.

#### Golden Rule

Nonexempt employees must be paid for all time they are “suffered or permitted” to work. This doesn’t just mean time in the office, but all time, whether pre-approved by the employer or not.

### The Basics

- All hours worked by a **nonexempt employee** must be recorded and compensated, even those performed outside of the employee’s standard shift.
- All time worked must be tracked and overtime work must be **approved by the supervisor** in advance.
- Overtime is determined by the **workweek**, not the pay period.
  - FSU’s **workweek** is midnight Friday through the following Thursday.
  - Night and weekend work is not automatically considered overtime, but counts as time worked.
- If nonexempt employees physically work over 40 hours from Friday through Thursday in a single FSU workweek, they must be given overtime compensation.

#### Time Worked

- ✓ Time spent working (regardless of location)
- ✓ After hours work from home (emails/calls/texts)
- ✓ Time spent traveling for work

#### Not Time Worked

- X Normal commuting to/from work
- X Downtime while traveling for work
- X Meal periods over 30 minutes (unless employee works)



### Managing Overtime

- Explain that overtime hours must be approved in advance by the supervisor.
- Set clear expectations about responses to work-related communications after hours and event attendance.
- **Flex time** within the workweek to avoid accruing overtime hours for nonexempt employees.
  - You can flex before or after the day(s) the employee is expected to work extra hours, but you must flex *within the same workweek*.
- Offer **Overtime Compensatory Leave**.
- **Rebalance workloads** between employees.
- Carefully review and approve all employee time records for accuracy.

### Special Issues

#### Dual Appointments

- If an employee has multiple nonexempt jobs at FSU, overtime is calculated by taking the total number of hours worked between both nonexempt FSU jobs.

# OVERTIME COMPENSATION

Departments generally have the option to provide **overtime pay** or **overtime compensatory leave** to nonexempt employees who work over 40 hours in a workweek.

- The supervisor and employee should agree on whether overtime hours will be compensated through receipt of **overtime compensatory leave** or **overtime pay**.
- Supervisors can preferentially assign the overtime hours to an employee who is willing to accept **overtime compensatory leave** instead of **overtime pay**.



## Overtime Pay

- Usually 1.5 times regular rate of pay
- Only option for OPS nonexempt employees



## Overtime Compensatory Leave

- Department can offer compensatory leave instead of overtime pay
- 1.5 hours of leave for each overtime hour worked
- Not available for OPS employees
- 160 hour cap
- Pays out annually
- Require employees to use overtime compensatory leave before annual leave

## Overtime Worked Without Pre-approval

- Nonexempt employees who work overtime without supervisory pre-approval should be counseled to clarify expectations and to provide a warning, but must still be compensated for the overtime hours worked.
- If the employee continues to work overtime without prior approval, the supervisor may proceed to disciplinary measures, with guidance from the Office of Human Resources.

## Questions & Resources

**Christine Conley**  
[caconley@fsu.edu](mailto:caconley@fsu.edu)  
(850) 644-1978

**Jonathan Banks**  
[jebanks@fsu.edu](mailto:jebanks@fsu.edu)  
(850) 644-1449

**FLSA Overtime Changes**  
<http://hr.fsu.edu/flsa>



**Over 40 is Overtime**