

FAIR LABOR STANDARDS ACT (FLSA)

UNCSA

**HUMAN
RESOURCES**

Fair Labor Standards Act (FLSA)

- Overview of federal law
- Exemptions
- Requirements for Non-exempt
 - Recordkeeping
 - Hours Worked
 - Compensable Time
 - Overtime
 - Meal and Rest Periods
 - Travel

OVERVIEW OF FEDERAL LAW & EXEMPTIONS

FAIR LABOR STANDARDS ACT – REVISED JULY 2009

- Enacted to protect workers
 - Establishes minimum wage
 - \$7.25 per hour beginning July 24, 2009
- Overtime pay
- Recordkeeping
- Required Posters
- Child labor requirements

Fair Labor Standards Act (FLSA)

- U.S. Department of Labor (DOL), Wage and Hour Office
 - Administers act and investigates complaints
 - Burden of proof is on employer
- www.dol.gov – regulations, file complaints, etc.

FLSA EXEMPTION TESTS

(from minimum wage and overtime)

- Salary Requirements
- Duties Test
- Both salary and duties test must be satisfied to classify positions as Exempt
- Primary Duty

EXEMPT VS. NON-EXEMPT POSITIONS

EXEMPT POSITIONS:

- Salary based compensation
- Does not track hours worked
- Does not earn overtime
- Limitations on deductions from daily/weekly pay

NON-EXEMPT POSITIONS:

- Hourly based compensation
- Must track all hours worked
- Eligible for overtime

REQUIREMENTS FOR NON-EXEMPT

- Professional Staff
 - **Primary duties do not satisfy FLSA duties test**
 - **FLSA salary requirement not met**
- Support and Clerical Staff
- Service Staff
- General Supervisors
- Hourly and Student Hourly Employees

RECORDKEEPING RESPONSIBILITIES

○ NON-EXEMPT EMPLOYEES

- Complete leave report daily/weekly
- Record hours worked, compensatory time and time-off

○ SUPERVISORS

- Approve overtime in advance
- Verify hours worked and time-off
- Approve leave report bi-weekly

○ DEPARTMENT

- Retain Records

HOURS WORKED

- **All time which an employee is required, suffered, or permitted to be on the employer's premises on duty or at a prescribed work place, except for meals or other periods when the employee is duty free, is considered hours worked.**
 - Also considering duties that are pleasurable rather than burdensome and even unproductive work is actually performed.
- **Hours work includes:**
 - All time during which an employee is required to be on duty on the employer's premises or at a prescribed work place
 - and all time during which an employee is suffered or permitted to work whether or not required to do so.
- **Unauthorized Work**
 - Hours worked by an employee without the employer's permission or contrary to instructions may or may not be considered hours worked.
 - Unrecorded hours worked during a workweek by an employee at the job site or at home must be counted as hours worked if the employer knows or has reasons to know of such practice.
- **On Call**
 - Time spent by an employee who is required to remain on call on the employer's premises or so close thereto that the time cannot be used for the employee's own purposes is considered working time.

HOURS WORKED (cont.)

○ Vacation, Sick Leave and Holidays

- Time spent on vacation, sick leave, and holidays will not be counted as time worked.
- Such time off must be included in straight pay, but is not included in computing hours work for overtime pay.

○ Grievance Time

- The time an employee spends during a regular work schedule in adjusting a grievance under the State policy on Employee's Appeals and Grievances is work time.

○ Training Time

- Required attendance at training sessions, workshops, and other meeting, whether before, during or after the employee's regular work schedule, is work time.
- Voluntary attendance at training sessions, workshops and other meetings is not work time.
 - Attendance is only voluntary if the employee is not led to believe that working conditions or continued employment would be adversely affected by nonattendance.

MEAL PERIODS

○ FLSA does not require meal and rest periods, but does provide regulation if an employer provides meal and rest periods.

○ Meal Periods

- Meal Periods are not hours worked when the employee is relieved of duties for the purpose of eating a meal.
- Any so-called “meal period” of less than 30 consecutive minutes must be paid as hours worked.

○ UNCOSA POLICY

- Unpaid meal period – 1 hour per full day worked

TRAVEL TIME

○ Home to Work (Normal Commute)

- Normal travel from home to work is not work time.

○ Home to Work on a Special One Day Assignment in Another City

- Traveling to and from another city or job location in excess of normal commute is work time.

○ Time Away from Home Community

- Travel that keeps an employee from home overnight is travel away from home. Travel time away from home community is work time when it cuts across the employee's regular scheduled workdays.

○ Travel That is All in The Day's Work

- Time spent by an employee in travel, as part of the employee's principal activity, such as travel from job site to job site during the workday, must be counted as hours worked.

OVERTIME PAY

○ Paid overtime for hours worked over 40 in the work week including:

- Unauthorized hours when work was performed
- Employee cannot waive or volunteer to work extra hours with no pay.

○ Calculating Overtime Rate

- Hours worked > 40 in a work week
 - Work week begins and ends at midnight on Saturday
- Paid at 1.5 times "regular rate" or equivalent compensatory time (compensatory time).
- Payroll system automatically calculates overtime based on a weighted average of all pay rates if an employee has multiple jobs.

COMPENSATORY TIME

○ Compensatory Time

- Is paid time off the job that is earned and accrued by an employee instead of immediate cash payment for working overtime hours.
- is awarded at a rate not exceed the individual's straight-time equivalent rate.
- Supervisors should allow use of accumulated comp time whenever it is mutually agreeable
- Not cumulative beyond a twelve-month period
- May not be transferred to another agency
- Is lost when an employee is separated from State service.

ADDITIONAL RESOURCES

○ HR Representatives/Campus HR Office

- UNCSA HUMAN RESOURCES OFFICE
1635 EHLE DRIVE
WINSTON-SALEM, NC 27127

○ Online Resources

- [HOURS OF WORK AND OVERTIME COMPENSATION](#)
- [U.S. DOL – WAGE AND HOUR DIVISION](#)