

Overtime for Non-exempt Employees

Introduction

An employee subject to the overtime provisions of the Fair Labor Standards Act (FLSA) is eligible to earn additional pay or compensatory time off for overtime work.

Please contact Human Resources if you are unsure whether you are non-exempt.

Compensation Policy for Overtime

A non-exempt employee is entitled to compensatory time off at the rate of 1.5 hours for each hour *worked* over 40 during the workweek or overtime payment at the rate of 1.5 times the regular rate of pay for each hour *worked* over 40 during the workweek. Management has the discretion to grant compensatory time for overtime work until an employee's balance is 240 hours; the employee must then be paid for any additional overtime accrued.

Any payment of overtime must first be authorized by the Deputy Comptroller.

Approval for Overtime

Division management is encouraged to minimize the amount of overtime worked by employees and may not authorize overtime work without permission from the Deputy Comptroller.

An employee must have prior approval from his or her management to work overtime. A non-exempt employee who works overtime without permission may be subject to disciplinary action up to, and including, termination from employment.

Management is responsible for enforcing the overtime policy.

Proper Accounting for Overtime

Management can require non-exempt employees to work overtime.

Part-Time Employees

A non-exempt employee does not earn overtime in the form of compensatory time or payment for working in excess of his or her scheduled hours in a week if the hours he or she worked are less than 40. Overtime is only those hours *worked* over 40 in a workweek.

Place Where Work Is Performed

An employee may accumulate FLSA compensatory time off for the hours worked during any week at the employee's personal residence only if the employee obtains advanced approval from the Deputy Comptroller or the Deputy Comptroller's designee.

Time Limit on Use of FLSA Compensatory Time

There is no time limit in which the employee must use compensatory time off accrued for overtime work. Management, however, is encouraged to allow an employee to use this compensatory time as soon as practical given the business needs of the division.

Management does have the discretion to require an employee to use compensatory time earned for overtime work. Management also has the discretion to require an employee to use his or her compensatory time earned for overtime work before using other accrued leave, excluding sick leave.

Pay for FLSA Compensatory Time

A non-exempt employee will be paid for compensatory time earned for overtime work at the discretion of the Deputy Comptroller during the employee's employment. The Comptroller's office will pay a non-exempt employee for compensatory time earned for overtime remaining on the books when the employee separates from employment.

With authorization from the Deputy Comptroller or his or her designee, a non-exempt employee may be paid for the hours of compensatory time the employee earns for work directly related to a disaster or emergency declared by the appropriate officer of the state or federal government.

Non-FLSA Compensatory Time

Provided the employee has prior approval from management, a non-exempt employee may earn compensatory time on an hour—for—hour basis, the same as an exempt employee:

- for working on a paid holiday; or
- if work and recorded leave time total more than 40 hours in one week (but actual time *worked* is less than 40 hours).

Please see Compensatory Time Policy for Exempt Employees for more details.

Authority

29 U.S.C. §201 *et seq.*

Texas Government Code §659.015, .018