

GUIDE FOR FLSA AND TIMEKEEPING RESPONSIBILITIES

This guide provides an overview of the Fair Labor Standards Act (FLSA) and its requirements, including how it relates to timekeeping responsibilities for employees, managers, and timekeepers. In addition, it outlines timekeeping standards, practices, and tools used at Iowa State University to assure compliance with the legal standards set forth in the FLSA.

The University is committed to ensuring that each employee is paid in accordance with federal regulations for hours worked. Each member of the University community plays an important role in ensuring this goal is achieved.

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FAIR LABOR STANDARDS ACT (FLSA) – THE “WHY” BEHIND TIMEKEEPING

What is the Fair Labor Standards Act (FLSA)?

The FLSA is a federal law originally enacted in 1938 during a period of economic depression to address the lack of federal employment standards. The U.S. Department of Labor (DOL) administers the FLSA, which addresses a variety of employment areas, including:

- Establishment of the federal minimum wage
- Restrictions on child labor
- Creation of the forty-hour workweek
- Overtime eligibility (exempt vs nonexempt)
- Requirements for recordkeeping and timekeeping

Consequences of Failure to Comply with FLSA Regulations

Your Personal Responsibility

Please read this guide to ensure you understand the law and your compliance as an employee and/or supervisor. In addition to the penalties outlined below, there is personal liability for managers/supervisors and federal lawsuits can be brought against an individual for willful/repeated violations. Anyone with questions or concerns about how time is being calculated, tracked, recorded, or paid should promptly contact University Human Resources Employee and Labor Relations Office.

All University employees and managers are expected to work together to assure compliance with the FLSA.

University Compliance

The Department of Labor (DOL) may choose to audit an employer’s payroll records for the following reasons:

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- 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 wide-spread irregularities; or
- The employer has been selected randomly.

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

- 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. These inquiries can go back a full 2 years.
- Legal fees – Employer and plaintiff attorney fees, witness fees, etc.
- Civil penalties – Fines up to \$1,000 per violation (i.e., each workweek's occurrence for each employee).
- Criminal penalties – Fines up to \$10,000 and/or six months imprisonment for willful, repeated violations.

FLSA EXEMPTION FROM OVERTIME

The FLSA categorizes all workers as either covered by the law and, therefore, subject to FLSA minimum wage and overtime provisions (“nonexempt”), or, exempted from the law and, therefore, not subject to the FLSA minimum wage and overtime provisions (“exempt”).

1. Nonexempt employees share the following characteristics:

- Are considered “not exempt” from the minimum wage and overtime provisions of the FLSA;
- For time worked over 40 hours within a workweek, nonexempt employees:
 - Are paid overtime (time and a half pay); or
 - Earn compensatory time off at a rate of time and a half (described in greater detail below).

2. Exempt employees share the following characteristics:

- Are considered “exempt” from the minimum wage and overtime provisions of the FLSA;
- Exempt staff are not eligible for overtime compensation for hours worked in excess of 40 per week. Consequently, exempt staff have greater flexibility for scheduling work. Scheduling of exempt staff should follow the principles outlined below:
 - As a public institution full-time exempt staff are expected to average at least 40 hours of work per week and may need to work more than 40 hours per week to fulfill their position responsibilities;
 - Time worked in excess of 40 hours per week will not result in overtime pay or accumulation of compensatory time off;
 - During unusual situations, a unit may balance a period of heavy work with a period of reduced work, without regard to the number of hours worked in any particular week;
- Are paid an annualized amount, or salary, for performing the whole job, not for every hour worked; and
- Are not required to track or record time.

THE WORKWEEK AND OVERTIME

A workweek is defined as 168 consecutive hours used by an employer for payroll purposes. Iowa State University defines the workweek as beginning at 12:01 am on Sunday and ending the following Saturday at 12:00 midnight per the [Work Week Policy](#).

- The 40-hour workweek is the basis for calculating regular time and overtime for nonexempt employees
- Nonexempt employees cannot average or transfer hours across workweeks
 - Each workweek stands alone when reporting hours (i.e. overtime hours must be recorded in the same week they are worked)
- When addressing part-time employees, the Full-Time Equivalent (FTE) determines the employee's regular work hours in a workweek
 - Part-time employees are eligible for overtime compensation following their 40th hour worked within the workweek

OVERTIME AND COMPENSATORY TIME (COMP TIME) GUIDANCE, CALCULATION AND USAGE

What Is Compensable Time? (Work Time)

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

Overtime

Overtime is defined as working more than 40 hours within the University's defined workweek. Nonexempt employees will be paid overtime compensation at one- and one-half times the employee's regular rate of pay for all hours worked in excess of 40 hours within the University's defined work week (beginning at 12:01 a.m. on Sunday and ending at 12:00 midnight on the following Saturday). The University has two options for compensating nonexempt employees who work overtime: overtime pay or compensatory time.

1. **Overtime pay** is compensation in the form of dollar payments in the employee's next regularly scheduled paycheck
2. **Compensatory (comp) time** is compensation in the form of paid time off hours that are accrued for future use within the fiscal year

Calculating Overtime Pay or Comp Time

There are two methods for calculating rate of pay:

1. Straight/Regular rate = 1.0 x hourly rate
2. Over 40th hour, time and one-half = 1.5 x hourly rate

Comp time hours are accrued at a rate of time and one-half, and paid at the regular rate of pay. For example, if an employee works four (4) hours of overtime in one workweek, they would earn six (6) hours of comp time. When the employee chooses to take those six hours of earned comp time as comp time off, it would be paid at straight time.

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

Monday	Tuesday	Wednesday	Thursday	Friday	Compensable Hours
10	8	7	9	8	40 hours straight time 2 hours overtime

Exception time is defined as hours above 40.0 for full time employees or any hours above a fractional employee's FTE. Example of the latter would be a ½ time employee working 24.0 hours in a week would have 4.0 hours exception time.

Exception time could be overtime if the hours worked took the employee over 40.0 in a workweek, or straight time as in the example above of the ½ time employee working 24.0 hours. In addition, if it was a holiday that took the employee over 40.0 hours, those exception time hours would be at straight pay since it was not hours worked that took them above the 40.0. If an employee earns comp time in lieu of overtime pay, the overtime pay (not the straight time exception pay) could be converted to comp time.

The use of paid or unpaid time including but not limited to holiday pay, sick, or vacation time off is not considered work time, and is excluded from the weekly total of time worked for purposes of calculating overtime. A supervisor may change an employee's work schedule, or in some cases time off usage, during the workweek to avoid the potential of overtime.

For example: A 1.0 FTE nonexempt employee who normally works five (5) eight-hour days, works 38 hours Monday through Thursday. That same week the employee had prescheduled vacation leave on Friday. In this case the supervisor can require the employee to take only two (2) hours of vacation time off (or comp time if applicable) on Friday to avoid pay in excess of 40 hours in the workweek.

Monday	Tuesday	Wednesday	Thursday	Friday	Compensable Hours
10	10	10	8	2 Vacation	40 hours straight time

Obtain Authorization to Work Overtime

Prior to an employee working overtime, they are required to receive authorization from their supervisor. The employee should be prepared to outline why the overtime is necessary and unavoidable. Supervisors have the discretion to establish overtime approval processes and may decline an employee's request to work overtime (or hours greater than their FTE for part-time employees).

Note: Even if overtime is not approved in advance by a supervisor, the FLSA requires that the hours be compensated if they were worked.

MANAGING OVERTIME AND COMPENSATORY TIME

Managers are responsible for balancing workload, staffing levels, and budget. Therefore, management has the discretion to determine if overtime will be allowed and the responsibility to determine whether additional hours will be compensated through overtime pay or comp time. The supervisor may change the work schedule during the workweek to avoid the potential of overtime. Through discussions with their managers, employees are required to understand how they will be compensated before working overtime hours.

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The employee will earn overtime pay unless an employee is assigned to accrue comp time. If the employee is assigned to accrue comp time, the employee will earn comp time for the entire month. The employee cannot split compensation for overtime worked between overtime pay and comp time within the same month. An employee may accrue up to 160 hours of compensatory time.

Comp Time Payout

Comp time is paid time off entitled to the employee. If an employee exceeds 160 hours of comp time in their comp time bank, the additional hours of overtime will automatically be paid out on the employee's next regularly scheduled paycheck.

The University will pay out annually, any comp time that is unused as of June 30. Units should work with the employee to ensure comp time is used throughout the year to avoid the required payout on June 30. Payment for comp time will be paid at the employee's regular rate on June 30.

Comp time will be paid out upon separation from the University. If an employee transfers or changes positions at the University, comp time will generally be paid out by the department in which it was incurred. In some situations, there may be a supported business reason for the comp time to carry over from the old position to the new one. Such situations will be evaluated as needed. Decisions to not pay out the comp time when there is a change in positions must be done in consultation with University Human Resources.

If an employee with accrued comp time is promoted or reclassified into an exempt position (i.e., they are no longer eligible to accrue comp time), comp time will be paid out at the time of the reclassification.

Comp Time Usage

Comp time must be earned before it is taken. Comp time earned must be taken prior to taking vacation leave unless the employee has reached their maximum accrual in their vacation bank. Once earned, comp time may be used at the discretion of the employee, subject to supervisory approval. A supervisor may not deny the request to use comp time unless it would unduly disrupt University operations.

In general, supervisors should set a reasonable request deadline, just like the use of vacation leave, for comp time usage. For example, an employee should request the use of comp time at least 48 hours in advance of the date they wish to take off. Before a department may deny the use of comp time for purposes of undue hardship, the supervisor must consult with University Human Resources Employee and Labor Relations. A supervisor may require an employee to use compensatory time at their discretion.

Best Practice Recommendations for Distribution of Overtime

- Managers should maintain and monitor a current roster recording each current employee's overtime work. A properly kept roster should help prevent unfair distribution of overtime and help settle disputes between employees and managers.
- Managers should create a process for asking qualified employees to volunteer for overtime opportunities. This process should be communicated clearly to eligible employees and the opportunity to volunteer should be fair.
- If notice of volunteer opportunities are posted, they should be posted in a visible area accessible to all eligible employees.
- It is recommended that overtime is distributed in a manner in order to try to best ensure fair and equitable distribution among qualified employees seeking overtime opportunities.

Assignment of Overtime

Overtime, when assigned, is a requirement for employees. Managers should exhaust volunteer opportunities for overtime prior to assigning mandatory overtime. The assignment of overtime should be arranged to cause the least inconvenience to employees. Managers should provide as much advance notice to employees of their

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requirement to work overtime, but advance notice is not required. Overtime work should be assigned on a basis of departmental/unit efficiency and economy and should be distributed in a manner that is fair and consistent.

TIMEKEEPING STANDARDS

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

- Paying employees accurately and timely
- Providing necessary information for financial and accounting records
- Meeting timekeeping (effort reporting) requirements for grants/contracts
- Complying with federal and state laws
- Fundamental fairness to nonexempt employees

Overtime requirements set forth in the FLSA represent binding federal law. Employees, supervisors, and the University are required to comply with the FLSA's overtime regulations, including payment for overtime that has been worked.

At no time may any individual at the University create or authorize exceptions to the time recording standards without review and approval from University Human Resources and the Office of University Counsel.

For example, a supervisor cannot waive an employee's requirement to complete a timesheet. Any agreements previously in place, whether written or verbal, are superseded by the updates to University procedures. As such, any prior agreement is no longer in force.

ROLES AND RESPONSIBILITIES

Role	Key Responsibilities
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<p>Nonexempt Employee</p>	<ul style="list-style-type: none"> • Understand and maintain the rules and regulations outlined in this guide • Accurately record and submit all time worked and time off on their timesheet within Workday • Check in and out of Workday • Certify and submit timesheet weekly to manager in Workday • Request approval from supervisor to work OT <u>in advance</u> of working overtime
<p>Manager</p>	<ul style="list-style-type: none"> • Understand and maintain the rules and regulations outlined in this guide • Review the Timekeeping Pay Period Checklist for each pay period • Answer employee questions about time entry and leave • Communicate workload and OT expectations to employee • Respond to requests by the employee to work OT • Monitor hours worked throughout the workweek by employees • Address worktime, workload, or OT issues promptly • Review and approve time and absences for direct reports • Review and approve timesheets in Workday in order to meet all payroll deadlines for employees to receive timely and accurate pay • Make corrections and revisions to timesheets as appropriate • Monitor timesheets for irregular time blocks and investigate • Ensure scheduled weekly hours are met for nonexempt employees • Assign schedules in Workday
<p>Timekeeper (Local Support Role for the Time Application within Workday)</p>	<ul style="list-style-type: none"> • Understand and maintain the rules and regulations outlined in this guide • Review the Timekeeping Pay Period Checklist for each pay period • Work with managers/nonexempt employees to edit unmatched time clock events or inaccurate time punches • Audit unentered, unsubmitted, and unapproved time with nonexempt employees and managers for the supervisory organizations you support • Provide support and/or approve time related tasks when a manager is unavailable to do so • Ensure scheduled weekly hours are met for nonexempt employees • Support managers with time off requests • Maintain the official records for compliance with the University's standard and record retention schedule • Assist supervisors and employees with questions about time • Process historical or retroactive time edits

Employee Standards

It is a nonexempt employee's responsibility to ensure they accurately record and submit all time worked and time off on their timesheet within Workday.

Manager Standards

Management must pre-authorize overtime worked and should establish overtime approval processes and clearly communicate those to nonexempt employees. If a nonexempt employee does not seek pre-approval and works unauthorized overtime, they must still be compensated. If a nonexempt employee continues to work overtime without supervisor approval, then the supervisor may take disciplinary action with the employee; however, withholding pay for the overtime worked is not permissible.

Overtime can be required as business necessitates. Supervisors are encouraged to give as much notice as possible to employees of their requirement to work overtime, but such notice is not mandatory.

No notice is required for changing an employee's schedule whether permanently or temporarily. A supervisor may change an employee's work schedule during the workweek to avoid the potential of overtime. For example, an employee who normally works five (5) eight-hour days:

For example: An employee works 10 hours each day on Monday, Tuesday, and Wednesday to meet a project deadline that is due Thursday morning. To avoid overtime, the supervisor may require the employee to work less than eight (8) hours on Thursday and/or Friday, so that their total hours for the week does not exceed 40.

Monday	Tuesday	Wednesday	Thursday	Friday	Compensable Hours
10	10	10	8	2	40 hours straight time

A manager must verify all hours worked for each nonexempt employee for each pay period. They must do so by verifying their employee's recorded hours are accurate within Workday and approve the employee's timesheet before the payroll cutoff date.

A manager may not unilaterally adjust an employee's time record. If there are discrepancies found, the manager should discuss those with the employee and accurately record the hours worked on the employee's timesheet.

Timekeeper Standards

If a timekeeper notices an error or discrepancy in a timesheet, they should consult with the nonexempt employee or manager. If they suspect a concern with a timekeeping practice, they are encouraged to report the concern to University Human Resources.

NONEXEMPT (HOURLY) SALARIED MERIT EMPLOYEES

ISU has a unique category of employees with the status of Nonexempt Salaried employees. This means they are Nonexempt from the FLSA regulations outlined in this document and therefore need to track their hours worked each work week to ensure they are fairly paid any overtime or comp time. However, what makes them unique is how they are paid. Instead of being paid a straight hourly rate, they are assigned a schedule or FTE (full-time equivalent) which would be 40 hours for full-time or anything below 40 for part-time schedules. An assumption is made, that they will always work their assigned and scheduled amount each week (at a minimum) therefore, they can be paid a monthly salary.

This is a historical precedent from the Merit System Rules that for ISU and other employers at the time helped reduce the cost of running payroll by reducing the number of payrolls to a monthly basis. This practice is also reflected in the State of Iowa and AFSCME collective bargaining agreement. This scenario where nonexempt (hourly) employees who are required to track their time on a weekly basis per FLSA, are paid a salary on a monthly basis can create confusion.

Hourly Pay Rate Appears to Change

The implementation of Workday has made something visible to nonexempt salary employees on their pay stubs that has always been true for these workers - their hourly pay rate changes depending on the month. An example is provided below. Please remember the assumption is that the employee will at a minimum work their scheduled hours.

An employee is making \$15 per hour and is a full-time employee, and as such scheduled and expected to work 40 hours a week, 8 hours per day. The concept of the monthly salary payment is to assume an employee will work 40 hours a week (or use paid time off), for a full year, which is 2,080 hours, or 52 weeks times 40 hours. At \$15 an hour that's an annual salary of \$31,200. Remember the assumption is the employee will always work their scheduled hours every week, throughout the year, so paying them the same payment each month, will result in accurately paying their hourly rate, as follows:

- Annual Salary \$31,200 / 12 Monthly Payments = \$2,600 Monthly Payment
- Annual Salary \$31,200 / 2,080 Annual work hours = **\$15 Hourly Rate**

In the above example, a monthly salary of \$2,600 over the course of a year will be a \$15 hourly pay rate. However, the hourly pay rate changes when you view the payment of 2,080 as an hourly rate in a given month. For example:

- **February 2019 had 24 workdays**
 - 20 Workdays X 8 Hours a day = 160 Hours
 - Monthly Pay Rate of \$2,600 / 160 Hours = **\$16.25 Hourly Rate**

Because February has less hours in the month, your pay rate appears in Workday as more than \$15 an hour. However, in a month with more days, your hourly pay rate may appear less than \$15 an hour.

- **May 2019 had 23 workdays**
 - 23 Workdays X 8 Hours a day = 184 Hours
 - Monthly Pay Rate of \$2,600 / 184 Hours = **\$14.13 Hourly Rate**

Workday calculations on your pay stub will reveal this difference, which has generated a lot of questions. What is important to remember is that over the course of a year, a steady monthly paycheck of \$2,600 will result in the correct hourly pay of \$15 for this example employee.

There are other complications, such as working at different pay rates (shift differential, or on-call), or working overtime and when that would be accounted for on a paycheck, which may depend on when the month ends, which is often in the middle of a given week. For example, if you work overtime the week that the month ends, and that month ends on a Wednesday, your overtime will not be accounted for until the next paycheck.

Working Less Than Your Scheduled Hours

Continuing the example from above, if you are paid a salary of \$31,200 in monthly payments of \$2,600 then it is assumed you've worked your scheduled 40 hours a week (in this example) every week for the full year. You are scheduled to receive a consistent \$2,600 monthly paycheck, so you must meet your scheduled weekly hours with some kind of documented time. This is the reason that nonexempt salaried employees are expected to enter a paid or unpaid time off request when they do not meet their scheduled weekly hours. The need to enter time applies to all nonexempt salary employees full or part-time.

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Employees and their managers will need to monitor the number of hours worked each week and when they are below the minimum enter a time off request. Please see the following:

- [Requesting an Absence Quick Reference Guide](#)
- [Correct an Absence Request](#)

CHECKING IN & OUT – WORKDAY

Nonexempt employees at Iowa State are subject to FLSA time tracking provisions. Nonexempt employees are eligible for overtime pay when hours worked exceed forty (40) within the university's workweek.

Below are some key points for your attention regarding checking in and out:

- All nonexempt employees will track their time using Workday.
- At a minimum, employees will check in and out at the start and end of their work period and at the start and end of meal breaks.
- Employees will log into Workday and check in and out via a web clock (including mobile options) or utilize a physical time clock.
- Employees must check in and out to record their hours worked in order to be paid.
- Employees must submit their electronic timesheet in Workday to their manager for approval.
- Managers, Timekeepers or their delegate may need to enter or correct time on behalf of the employee to ensure accurate timekeeping and that pay is received for hours worked.
- Managers, Timekeepers or their delegate must approve the electronic timesheets in order for employees to be paid.

Advantages of Workday for Nonexempt Employees and their Managers

- Should an employee transfer from one department to another, they will not need to learn a new process as to how to track their time while at work – or away. Time off requests and hours worked will be submitted and approved consistently between departments.
- Paper processes can be eliminated reducing the shuffle and potential loss of time and absence records. Audit trails within the system will allow employees, managers and support roles to see where a task is at and who completed which step.
- Workday dynamically calculates pay based on rules built within time calculation tags in the system. Examples of this include:
 - Shift Differentials: Pays the employee an additional \$.60 for any shift of which four or more hours occur between 6 p.m. and midnight and \$.65 for any shift of which four or more hours occur between midnight and 6 a.m.
 - Worked on Holiday: Pays the employee holiday premium pay at the rate of one and one-half the employee's regular rate in addition to their normal holiday pay.
 - Overtime: Pays the employee at a rate of one and one-half the employee's regular rate of pay.
- Workday utilizes time entry codes to differentiate the type of hours worked which then associates the correct rate of pay an employee should receive. Examples of this include:
 - Regular Hours: Pays the employee their regular rate of pay.
 - On Call: Pays the employee at a rate of 10% of their regular hourly rate of pay for time spent in this status.

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- Call Back: Pays the employee a minimum of three hours pay or actual time worked for work in excess of three hours.
- Employees or Managers can request comp time for hours worked over 40 to be banked versus paid out in cash. The system defaults to paying overtime in cash if comp time is not requested. The manager has final approval.

Mobile Best Practices and Guidelines

The use of mobile devices outside of a scheduled shift may be limited to certain jobs and situations. Devices should not be used outside of designated work hours without supervisor authorization. Supervisors must inform employees of their expectations related to mobile devices. Should a non-exempt employee not be expected to respond to emails or calls outside of normal work hours, even though it is convenient or enhances customer service, their supervisor must clearly communicate this expectation.

If a non-exempt employee responds to a work-related email, call or text “very occasionally,” then court cases have considered that to be “de minimis” and therefore not counted for overtime purposes. Court cases have defined “de minimis” time to include “insubstantial or insignificant periods of time beyond the scheduled working hours, which cannot as a practical administrative matter be precisely recorded for payroll purposes, may be disregarded” and to only apply “where there are uncertain and indefinite periods of time involved of a few seconds or minutes duration.”

If a non-exempt employee occasionally responds to a work-related email, call or text that only takes a few minutes and on an irregular basis, it would likely be considered “de minimis.” However, permitting or “suffering” a person to regularly use their mobile devices outside normal working hours can result in overtime at time-and-one-half for anything exceeding 40 hours in a workweek. As stated above, supervisors should set clear expectations as to what is and is not appropriate for mobile device usage outside of designated work hours.

COMPENSABLE TIME – THE WHAT, WHY, HOW AND WHEN TIME IS PAID

Hours Worked and Leave

Hours worked for the calculation of overtime do not include sick, vacation, comp time and holidays. Employees cannot request time off that would be in excess of their current FTE. For example, an employee with a FTE of 20 hours per week cannot work 16 hours between Monday and Thursday and then request or record 8 hours of vacation on Friday, even if that 8 hours was pre-approved.

If an employee does not work the required hours of their FTE, they are required to take compensatory time (if applicable) or time off (vacation) so that their FTE for the week will be whole. Should paid time off not be available, unpaid time off should be utilized and tracked on the employee’s timesheet. Furthermore, supervisors need not approve/deny vacation requests based on seniority and within specified timeframes. Supervisors should be fair and consistent in approving/denying requests and base decisions on business needs as appropriate.

University Holidays

When a holiday falls on a regularly scheduled work day for full time (1.0 FTE) employees, and the employee is not required to work the holiday, the holiday pay is equal to what the employee would regularly earn on that day, depending on their work schedule.

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Holiday pay cannot be reduced in order to maintain a 40-hour workweek, rather, full time employees must receive at least eight (8) hours of holiday pay. The hours worked will not count toward the calculation of overtime for the week. Merit employees required to work on University holidays will be paid at the premium rate of time and one-half.

For example: A 1.0 FTE nonexempt employee who normally works five (5) eight-hour days, works 38 hours during a week where a holiday falls and the employee did not work the holiday. The employee would earn 38 hours of straight pay and eight (8) hours of straight holiday pay. Since the holiday hours are not considered hours worked, the employee would not receive overtime compensation that week, however they would receive six (6) hours of additional pay at straight time, exceeding 40 hours in that workweek.

Monday	Tuesday	Wednesday	Thursday	Friday	Compensable Hours
8 Holiday	9	9	11	9	46 hours straight time

Part time employees (those working less than 40 hours per week) will receive holiday pay according to their fraction of employment (e.g., 3/5, etc.), regardless of their work schedule or day in which the holiday falls.

For example: A .5 FTE nonexempt employee who normally works eight (8) hours on Monday and Tuesday and four (4) hours on Wednesday, will receive four (4) hours of holiday pay regardless of which day the holiday falls during the workweek. If the holiday falls on a Monday or Tuesday, the employee will be required to either work four (4) additional hours or take four (4) hours of vacation in order to maintain 20 hours of pay for the workweek. If, in this example, the holiday falls on a Friday, the employee would be permitted to reduce their work hours by four (4) on a day they are scheduled to work, in order to maintain their .5 FTE status.

Monday	Tuesday	Wednesday	Thursday	Friday	Compensable Hours
4 Holiday 4 Vacation	8	4	n/a	n/a	20 hours straight time

Meal and Rest Periods

The University encourages employees to take daily meal breaks and rest periods as necessary. Employees should work with their supervisor to determine the appropriate scheduling of meal and rest periods to meet the needs of the employee and their department.

Employees should be fully relieved from work during meal periods and are expected to check out when they stop working and check back in when they resume working after their meal break has finished. Under the FLSA, bona fide (i.e., uninterrupted) meal periods of 30 minutes or more are unpaid and should not be included in time reporting or in the calculation of overtime hours worked. An employee who performs work of any type while on their meal period must be compensated as the employee has not been completely relieved from duty. Most employees typically have a 30 or 60-minute unpaid meal period built into their schedule for each eight (8) hour workday. Previous practice of 40 or 70-minute lunch hours are no longer required.

Rest periods are considered paid time, and therefore are included in determining if overtime has been worked, and should be included when reporting time. A supervisor has the authority, but is not required, to establish and permit paid rest periods for nonexempt employees of up to 15 minutes for each four (4) hour work period.

Call Back Time

Merit employees who are called back to work after completing their regular work schedule will be paid for a minimum period of three hours, regardless of the time worked. Merit employees who are called and work in

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excess of three hours will be paid the actual time worked. Should a supervisor need to call back employees, they should be prepared to assign no less than three hours of work to maximize the productivity and costs associated with call back time. An employee is not considered in Call Back Status if the request to work additional hours is contiguous to their shift or less than 30 minutes from when their scheduled shift ended and they clocked out.

On-Call Time

On-call is when an employee is required to remain available for work, whether on or off University premises, such that they cannot use the time effectively for their own purposes. In such situations, a supervisor is required to notify staff in advance of their on-call status. Whether an employee is considered working, and therefore compensated while on-call, is situational:

- An employee who is required to remain on-call on University property is considered working and must be compensated for the entire duration they are on-call
- An employee who is required to remain on-call off University property and who must leave a message where they can be reached for future work within a reasonable time period but can otherwise engage in personal activities, is not working and need not be compensated, unless they are contacted and required to perform work. Then, they are only compensated for the time actually spent working (not the wait time)
- An employee who is required to remain on-call off University property and must be prepared to provide services immediately upon notification is considered working and must be compensated for the entire duration they are on-call

Wash Up Time

Departments/units may need to establish eligible merit positions where cleaning or showering is required for sanitary reasons or decontamination. When units designate a merit position as being eligible for wash up time, the wash up time is compensated as hours worked.

Shift Differential

All merit employees will be paid a shift differential for any shift of which four or more hours occur between 6pm and midnight and shift differential for any shift of which four or more hours occur between midnight and 6am. This rate is set by the Regents Merit System Director as outlined in the Regents Merit System Rules.

Lectures, Meetings, and Training Programs

In general, meetings, lectures, and training are included as work hours and should be paid. They may be excluded only when all of the following criteria are met:

- The event is outside normal hours;
- The event is voluntary;
- The event is not job related; and
- No other work is concurrently performed.

An employee should consult with their supervisor *prior* to attending elective events to assure attendance will not be unduly disruptive to the department and also to avoid any confusion over whether attending the specific event is considered compensable time. Employees may still be able to attend but may be required to take time off for the time they are out of the office.

Remote Access

Employees should talk to their supervisor about their department's processes and expectations of after-hours work, including checking and responding to emails and/or phone calls. Time spent on work email or phone calls outside of normal work hours or while on lunch breaks on a regular basis is considered time worked and should be recorded. If a nonexempt employee checks and/or responds to emails or calls very occasionally or infrequently, and that period of time is less than six (6) minutes, this time is considered "de-minimis" (i.e., insignificant) and does not need to be recorded.

Travel Time

The principles which apply in determining whether time spent in travel is compensable time depends upon the kind of travel involved. Generally speaking, excluding normal commuting time, employees should be compensated for all travel unless it is:

- Overnight;
- Outside of regular work hours; or
- On a common carrier or the employee is a passenger.

Volunteer Time

There are legitimate opportunities for employees to volunteer for civic, charitable, or humanitarian events at the University. For example, when a department hosts a charity fundraising pancake breakfast and employees donate their time to support the event. True volunteer work is unpaid time and therefore should not be recorded.

True volunteer work:

- Must be performed for civic, charitable, or humanitarian reasons;
- There can be no promise, expectations, or receipt of compensation; and
- The person must offer services freely and without any (direct or indirect) coercion.

An employee may not volunteer their time to perform the same or similar duties that they perform as an employee. For example, it would not be appropriate to ask the department webmaster to mock up a website for a fundraising event without compensating the employee for this work.

University Service

University service is defined as individual effort provided to the University that may fall outside of the normal job responsibilities. Examples of University service are service on search committees outside of your home department or service on institutional committees, such as P&S Council. University service is considered paid time and therefore should be recorded. An employee must discuss such activities with their supervisor before agreeing to a commitment outside of his/her normal scope of work, and such activities should not interfere with an employee's job performance or create an undue disruption to the department.

Professional & Scientific Council

Regardless of an employee's exemption, they may be elected to Professional and Scientific Council (P&S Council). An employee and supervisor should discuss this commitment prior to an employee running for Council. The chart below shows generally how many hours to expect a councilor to be engaged in council duties.

Guide for FLSA & Timekeeping Responsibilities

Councilor Commitment Type	Anticipated Hours of Commitment Per Month	% of Time
Councilor Commitment (Non-executive committee member)	4-8 hours (3-4 hours week of council meeting)	4.60%
Councilor Commitment (Executive Committee)	10-14 hours (4-5 hours week of council meeting)	8.07%
President-elect	15 hours per month	8.65%
President	25 hours per month	14.42%

Table reflects September 2016 information

Nonexempt employees should work with their supervisor to plan for council duties within their 40-hour workweek whenever possible. The time an employee is performing work for Council is considered paid time.

Lactation Breaks

The Affordable Care Act amended the FLSA adding a legal requirement for employers to provide reasonable break time for an employee to express breast milk:

- Breaks permitted when the employee has a need to express the milk
- For one year after the child's birth

Employers are not required under the FLSA to compensate nursing mothers for breaks taken for the purpose of expressing milk. However, where employers already provide compensated breaks, an employee who uses that break time to express milk must be compensated in the same way that other employees are compensated for break time. At ISU, we have generally considered breaks for new mothers to express milk to be paid breaks.

ORGANIZED MERIT EMPLOYEES – 2017 CHANGES

Below is a summary of time and absence changes that impacted organized merit employees in 2017:

- Overtime equalization is no longer required. Supervisors may distribute overtime based on business needs.
- Approval/denial of vacation requests are no longer based on seniority and within specified timeframes. Employees should work with their supervisor on time off requests.
- Meal periods of 30 minutes or more will remain unpaid as long as the employee is fully relieved from duty. ISU is no longer required to allow meal periods of 40 or 70 minutes.
- Eligible employees will be covered by the Family and Medical Leave Act (FMLA) for medical leave purposes.
- Hours worked for the calculation of overtime will not include sick, vacation, comp time and holidays.
- Usage of time off is not permitted until time off is accrued.
- Employees will receive straight pay for holidays not worked. These hours will not be counted as hours worked for purposes of overtime calculation. Part-time employees will receive holiday pay according to their fraction.
- The maximum bank of compensatory (comp) time is 160 hours.
- Employees will receive shift differential for any shift of which four or more hours occur between 6pm and midnight and for any shift of which four or more hours occur between midnight and 6am.
- Employees may request a payout of comp time banked in cash at any time. All comp time banked on June 30 will be paid out at the employee's pay rate on June 30.