

# Supervisors/Managers Guide to the Fair Labor Standards Action (FLSA)

## Overtime Eligible Employees

### Updated October 2023

Effective January 1, 2024, the new salary threshold to be exempt from overtime in the State of Washington is \$67,724.80/year (\$5,643.74/month). This is a moderate increase from the 2023 threshold, with a significant increase expected for January 2025. Employees whose annual salary is below this threshold as of January 1, 2024, become eligible for overtime compensation and their specific work hours must be tracked. This value is [set by the state](#) and is scheduled to increase annually through 2028.

Example: consider a 12-month annual employee currently making \$52,743.60 who becomes OT Eligible:

- This equates to a monthly salary of \$4,395.30 and an hourly rate of \$25.26.
- Overtime rate is 1.5 times the hourly rate: \$37.89/hour.
- 10 hours of overtime per pay period =  $10 \times \$37.89 = \$378.90$  per pay period of OT. Projected over a full year (24 pay periods) = \$9,093.60.

All employee hours worked must be tracked daily in Workday - Time. All annual or sick leave must be entered in Workday - Absence. Supervisors/Manager must approve both Time and Absence for all employees reporting to them. <https://jira.esg.wsu.edu/servicedesk/customer/kb/view/156963721>

Overtime is paid (time and a half the employee's regular rate of pay) for all time worked in excess of 40-hours per week (excluding annual and sick leave) as outlined in [BPPM 60.59](#).

- Most employees receive overtime payment as monetary compensation.
- FLSA allows compensatory time off (comp time) in lieu of monetary compensation if requested by the employee.
- Overtime is paid if the employee works, regardless of whether they have permission to work overtime. A supervisor's lack of knowledge of the work doesn't eliminate the employer's obligation to pay the overtime. This includes working through lunch periods. It is critical that clear procedures for overtime pre-approval are established, communicated, and enforced.

#### **Meal and Rest Period(s):**

All overtime-eligible employees must be allowed a paid rest break, free from duties, of at least 15-minutes for every 4 hours worked. The 15-minute break can be taken in small increments or all at one time. Employers cannot restrict use of the restroom to a rigid time schedule.

All overtime-eligible employees must be allowed a minimum of a 30-minute meal break toward the middle of the shift. Meal periods may be waived with a signed voluntary waiver. If the employee is required to remain on duty – the meal period is paid. Refer to [BPPM 60.59](#) and [WAC 296-126-092](#).

- Rest breaks cannot be waived or combined.
- Meal and rest periods cannot be combined.
- Meal periods can be waived with voluntary form and approval from supervisor.
- Employees cannot be **required** or **permitted** to work through meal or rest period without being compensated.

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### **Managing Projects or Deadlines:**

- Supervisors can require an employee to work mandatory overtime or on a scheduled day off.
  - For full-time Civil Service employees, work on a scheduled day off when assigned by the employer constitutes overtime regardless of the total hours worked in the work week.
  - It is recommended to give employees reasonable amount of notice to make any adjustments necessary. You are required to pay time and one-half for all hours worked over 40-hours in a workweek.
  - Bargaining Unit Employees may have additional requirements covered by their specific Collective Bargaining Agreement. Refer to [WSU Labor Relations](#).
- Supervisors can approve an employee request to work overtime to complete a project.
- Supervisors can approve and/or offer compensatory time off (comp time) in lieu of paying monetary compensation:
  - Compensatory time off in lieu of – must be selected in Workday. Refer to guide: <https://jira.esg.wsu.edu/servicedesk/customer/kb/view/156964725>
  - An employee may request to be paid out all accrued 'comp time' at any time.
  - WSU requires all accrued comp time is paid each biennium.
  - Supervisors may require employees to use accrued comp time prior to annual leave.
- Employees may not be asked, allowed, or required to Volunteer, without compensation, additional time to do the same work for which they are employed.

### **Travel Time (non-inclusive listing):**

Determining overtime eligibility for travel time is complicated depending on when, where, or how the employee travels on official university business, they may or may not be eligible for overtime. Contact HRS for assistance to ensure employees are compensated correctly for travel time.

- Travel from an employee's home to the office is considered normal commute time and does not qualify for overtime.
- An employee comes into the office but then travels to different worksites during the workday. The time spent traveling from the office to another worksite is considered time worked and could result in overtime.
- An employee drives out of town for a special assignment. Drive time is considered time worked and subject to overtime eligibility if it takes place beyond the 40-hour work week. Employees' time as a passenger is also considered time worked.
- An employee has an approved Telework agreement. If a supervisor requires the employee to come to the office on a scheduled remote location day without notice, the travel time to the office could generate overtime eligibility. Contact HRS for assistance.

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### **SAMPLE FLSA violations (non-inclusive listing):**

- The supervisor fails to keep proper records of overtime hours worked.
- The supervisor permits or requires employee to volunteer to complete project(s) due to limited funding.
- The supervisor **and/or** employee keeps an off-the-books record of hours worked or time off.
- The supervisor does not allow employees to take their two 15-minute breaks or minimum 30-minute meal break (uninterrupted).
- The employee is never granted time off to use comp time or only granted use of a small percent of their comp time (or the supervisor denies payment of comp time at employee request), or
- The supervisor offers only comp time and never approves overtime pay.

### **Penalties:**

- Employers who willfully or repeatedly violate the minimum wage or overtime pay requirements are subject to criminal penalties of up to \$10,000 in fines, up to six months imprisonment, or both, and civil penalties of \$1,000 per violation.
- Employers will be liable to affected employees for unpaid minimum and/or overtime wages (back wages), plus an equal amount as liquidated damages, and may also be liable for attorney fees and court costs.

Note: It is a violation to terminate or in any other manner discriminate against an employee for filing a complaint or participating in a legal proceeding.

Questions? Contact your [HRS Service Team](#).