



Managing Nonexempt Employees According to the Fair Labor Standards Act (FLSA)

OVERVIEW

Who is going to pay for your risk taking? You? UAB? Each time you fail to properly document a nonexempt employee's time, it places you and UAB at risk. Know the policies and procedures. Avoid the inspections, audits, and possible fines. Do the right thing.

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INTRODUCTION

The purpose of this course is to:

- Inform you of the Fair Labor Standards Act (FLSA) and how it affects you as a manager of nonexempt (NE) employees
- Advise you of the UAB Policies and Procedures regarding NE employees, time tracking, recordkeeping, and other regulations
- Update you on time tracking, recordkeeping, and other items regarding nonexempt employees
- Familiarize you with special topics concerning nonexempt employees

There is an assessment at the end of the course to verify that you have a general understanding of the FLSA regulations and the UAB Policies and Procedure regarding time management and recordkeeping of NE employees. There are ten questions. The passing score is 80% or higher. You have three attempts to pass.

THE FAIR LABOR STANDARDS ACT (FLSA)

The FLSA is a federal law enforced by the U.S. Department of Labor (DOL). While the law covers both exempt and NE employees, it exists primarily for the protection of NE employees.

UAB must abide by the law or be subject to fines or other legal actions. For more information, visit the [UAB FLSA website](#).

What Does the FLSA Cover?

The FLSA covers:

- The federally mandated minimum wage
- Overtime eligibility
- Overtime pay
- Recordkeeping
- Child labor standards
- Nursing mother breaks and facilities

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What Does the FLSA NOT Cover?

The FLSA does not cover:

- Benefit time – vacation, sick leave, personal leave, holidays
- Breaks/rest periods or meal periods
- Severance pay, premium pay for weekends or holidays
- Pay stubs or W-2s
- Terminations

FLSA, Exempt, and NE Employees

At UAB, we differentiate NE and exempt status based on employees' defined pay and pay schedule. However, hourly and salaried are NOT classifications. These are methods of payment.

The FLSA distinguishes work as either NE or exempt. It is the responsibility of the Compensation Department to determine whether a job is exempt or NE.

It is vital that you, as a manager, keep accurate and concise records and follow all guidelines to avoid violations of the law and audits from the DOL.

NE Employees

NE employees:

- Receive hourly wages
- Earn at least the Federally mandated minimum wage
- Receive bi-weekly pay
- Are entitled to overtime pay or compensatory (comp) time when working more than 40 hours in a workweek

Examples of NE positions are customer service, skilled trades, service maintenance, technical, and clerical positions.

Exempt Employees

Exempt employees are:

- Paid monthly
- Paid a salary of \$47,476 or more
- Not eligible for overtime or comp time

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Examples of jobs that are considered exempt are financial analysts, executives, and some jobs that require advanced degrees.



As a manager, you should know the status of all your employees.

PAID AND NON-PAID WORK ACTIVITIES

If or when the activities below are work-related, NE employees must be compensated.

- Waiting times **IF** the employee has to wait before the work begins or is shutting down for the day (e.g., waiting for a computer or machine to come on before beginning work)
- On-call time **IF** the employee must restrict their activities and/or the distance to and from work
- Commuting **IF** the employee picks up supplies on the way to or from work
- Workday travel to and from work sites
- Meal periods **IF** the employee's breaks are cut short, **OR** employees work through or during the lunch period
- Training and meetings **IF** their attendance is mandatory or directly related to the employee's job
- Uniforms or clothing changes **IF** necessary for the job (e.g., putting on or taking off Personal Protective Equipment or PPE)
- Travel **IF** it is during regularly scheduled work hours
- Pre- and post-work activities (e.g., closing down for the day – machines, locking up, etc.)



Always contact your HR Consultant or the Compensation Department if you have questions about NE employees and their paid time.

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FLSA, UAB, MEAL, AND REST BREAKS

The FLSA nor the State of Alabama requires UAB to provide meals or rest breaks. However, NE employees may be allowed a 30-minute or more break per shift for a meal period. Breaks or rest periods may be permitted (see [HR Policy 621](#) below).

Breaks

“If the workload permits, breaks and rest periods are allowed. Employees should be aware that taking a break or a short rest period depends upon the department involved and whether normal work can be continued while employees take breaks. Where rest periods are allowed, they are limited to two 15-minute breaks per shift. Breaks typically may not be accumulated to allow employees to leave work early or to extend or replace a lunch period.”

Meal Periods

NE employees must be relieved from all work duties during that time. It is best if the employees can leave the work area to avoid being asked to work.

Any work performed during the employee’s designated meal period must be counted toward hours worked for that week. This time includes answering the phone or waiting to answer it.

TIME AND RECORDKEEPING

Accurate and Consistent

Both accurate and consistent time tracking and recordkeeping are critical when managing NE employees. However, neither the FLSA nor the Department of Labor identifies a specific method of time tracking or recordkeeping. The only requirement is that it be accurate and consistent.

Kronos

Kronos is the time and recordkeeping system for all UAB NE employees. For more information, please visit the Timekeeping website at www.uab.edu/timekeeping.

Falsification of Time and Recordkeeping

UAB Policy states, “Falsification of time or unauthorized submission is a serious offense and may result in termination.” [HR Policy 208](#)

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OVERTIME AND COMPENSATORY TIME

Compensatory time, or comp time, has changed recently. In 2016, the FLSA courses stated comp time was not allowed. Now comp time is an option available only for public sector employees. At UAB, only employees who are considered regular, full-time employees in Workforce Group A can earn comp time. For more information, see [HR Policy 213](#) and the [Compensatory Time website](#).

Overtime

Overtime is 1.5 times the regular hourly rate of an NE employee when the employee works more than 40 hours in a workweek. Exempt employees are not eligible for overtime work or pay.

If an employee takes vacation time, sick leave, personal leave, or is off for a holiday during that workweek, then he/she is not eligible for overtime pay. If asked to work overtime, the employee will be paid his/her standard rate of pay for the hours worked.

Most DOL audits are the result of not paying NE employees overtime for anything over 40-hours worked.

Compensatory Time

Compensatory time, or comp time, is calculated like overtime – 1.5 times the hours worked.

Carl is an NE, regular, full-time employee in Workforce Group A. He works 40 hours this week. He is asked to work two hours overtime this weekend. His hourly wage is \$20 per hour. He would receive an extra \$60 for those two hours, but he wants to see his daughter's play next week and eat lunch with her afterward.

Carl can ask his manager for comp time. **If approved**, he would receive three hours as comp time. His manager must be informed in advance of the date and times he'll be gone next week. The manager must approve the time off, and Carl must [record it correctly in KRONOS](#).

Off-the-Clock Work

NE employees are **NOT** allowed to work "off-the-clock" hours.

Examples include:

- Working during or through lunch breaks without prior approval
- Coming in early or staying late without prior approval
- Answering job-related calls or e-mails outside normal work hours without pay.

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Please review [UAB's Smartphone Use for Nonexempt Employees](#) information.

CHILD LABOR STANDARDS

UAB is certified to allow minors of a specific age to work with employees. For more information, see [HR Policy 125, the Employment of Minors](#).

BREAKS & FACILITIES FOR NURSING MOTHERS

UAB is required to provide reasonable break times for a mother to express breast milk for her nursing child up to one year after the child is born.

The mother is allowed to take an unpaid break each time she needs to express milk or a paid break if it is her usual paid break time.

UAB is required to provide an area, other than a bathroom, to express milk. The facility must be:

- Shielded from view
- Free of interruptions from coworkers or the public
- Readily available to the employee

Below is the link to the website which contains a list of the lactation centers located UAB.

<http://www.uab.edu/women/resources/campus-lactation-centers>

KEY TOPICS

The following items are those that you should remember and use while managing NE employees.

- The Fair Labor Standards Act (or FLSA) covers time, status, and pay matters especially in regards to NE employees.
- The United States Department of Labor (or DOL) enforces the FLSA. In recent years, the number of DOL audits has increased greatly.

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- UAB Policies and Procedures regarding both exempt and NE employees are posted online. If you need assistance, there is a contact list on the Compensation Department's website.
- Exempt and NE employees are managed differently especially concerning time tracking, recordkeeping, and overtime.
- NE employees must be paid for **all** hours worked whether approved or not.
- Overtime pay for NE employees is one and one-half times their regular hourly rate of pay.
- Compensatory time is an option available only for public sector employees. Only NE employees who are considered regular, full-time employees in Workforce Group A can ask for compensatory (comp) time.
- "Off-the-Clock" time is **not** permitted at UAB.
- Accurate and consistent time tracking and recordkeeping are critical for all NE employees at UAB.
- More information on managing NE employees under the FLSA is available on the Compensation website.

CONCLUSION

The Assessment

The following assessment has ten randomizing questions and answers. The passing score is 80% or higher. You have three attempts to pass before failing the course. Good luck.