



# **Managing Non-Exempt Employees According to the FLSA**

## Introduction

This document is intended to be used as a resource. Its purpose is to:

- Describe a brief overview of the Fair Labor Standards Act (FLSA).
- Identify the differences between non-exempt and exempt employees based on FLSA guidelines.
- Review UAB policies and procedures regarding time tracking, recordkeeping, and other regulations for non-exempt employees.

## The Fair Labor Standards Act (FLSA)

### Overview

The [Fair Labor Standards Act \(FLSA\)](#) is a federal law enforced by the [U.S. Department of Labor \(DOL\)](#). It ensures employees are treated fairly and accurately compensated for their time worked. The FLSA determines a job exempt or non-exempt and establishes standards for minimum wage, overtime pay, recordkeeping, child labor, nursing mother breaks, and facilities.



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

## Clarifying Roles and Expectations

### Defining the Differences

FLSA defines specific criteria that identify employees as either **non-exempt** or **exempt**. UAB abides by those distinctions. The difference between non-exempt and exempt are listed below.

#### Non-Exempt

- Paid hourly
- Bi-weekly pay
- Tracks time
- Eligible for overtime pay

#### Exempt

- Paid a salary
- Monthly pay
- Does not track time
- Ineligible for overtime pay

# Managing Non-Exempt Employees According to the FLSA



**NOTE:** As a supervisor, please know the status of all your employees. Contact your [HR Representative](#) if you need assistance.

## Time and Recordkeeping

Accurate and consistent time tracking and recordkeeping are critical when managing non-exempt employees.

### What system is used for timekeeping?

UAB uses [Campus Time and Attendance](#) (formerly KRONOS) for university recordkeeping of time and attendance, vacation, and sick days for all non-exempt employees.



**NOTE:** Non-exempt employees working remotely must be connected to [UAB VPN](#) to access Campus Time and Attendance.

Campus Time and Attendance training for employees and supervisors is available on the [UAB Financial Affairs Website](#).

### What is your role as supervisor?

**You are responsible for approving your employee's recorded time each pay period.**

As a supervisor of a non-exempt employee(s), you are a [Campus Time and Attendance Editor](#). You are also responsible for editing/correcting the non-exempt employee's [Campus Time and Attendance](#) timecard when needed. Approval happens biweekly and follows the [biweekly payroll schedule](#).



**NOTE:** Some departments may have additional time editors to assist with reviewing timecards. However, as the supervisor, you have the ultimate responsibility to approve.

### Punching In/Out

All non-exempt employees, including remote workers with internet access, must punch in/out using [Campus Time and Attendance](#) to track their daily hours worked.

## Tracking Paid Time Off

Benefit-eligible non-exempt employees also use [Campus Time and Attendance](#) to document their paid non-worked hours, including, but not limited to, vacation, sick leave, personal holidays, bereavement, and jury duty. For more information, see [Time Tracking and Recordkeeping \(HR Policy 208\)](#).

## Paid and Non-Paid Work Activities

All hours worked by non-exempt employees must be recorded and compensated, even those performed outside the employee's standard shift. Employees cannot work "off-the-clock" or work voluntarily. If any of the following activities below are work-related, non-exempt employees must be compensated:

- **Waiting Times:** If an employee has to stay before or after work begins (i.e., waiting for a computer to boot up before starting work or waiting to shut down equipment at the end of the day).
- **On-Call Time:** If an employee is required to be on-call and must restrict their activities and/or stay within a certain distance from work, this time is compensable.
- **Commuting:** Generally, regular commuting time to and from work is not compensable. However, if an employee is required to pick up supplies on the way to or from work, that time is considered compensable.
- **Workday Travel:** Travel time during a workday to and from work sites is typically compensable.
- **Meal Periods:** If an employee's meal breaks are cut short or if they work through or during their lunch period, that time is usually compensable.
- **Uniforms or Clothing Changes:** Time spent changing into necessary job-related clothing, such as putting on or taking off Personal Protective Equipment (PPE), is usually compensable.
- **Travel:** If an employee travels during regularly scheduled work hours, that time is generally compensable.
- **Pre-and Post-Work Activities:** Activities such as closing down equipment, locking up, or other tasks directly related to the job are compensable.

## Communication Outside of Work Hours

Communication is work and should not be done “off-the-clock” for non-exempt employees. Examples of communication:

- Reading or responding to emails
- Texting/chatting
- Viewing/editing online files

Since this is considered work, employees would need your approval, and this would need to be compensated. Infrequent and insignificant periods of time outside scheduled working hours, which cannot, as a practical matter, be precisely recorded for payroll purposes, are not compensable in that the time are considered de minimis. See [UAB’s Smartphone Use for Non-Exempt Employees](#) for more information.



**NOTE:** Outlook has features that allow you to schedule emails to be sent later. We recommend that you use these to send emails to your employees during work hours. For more information, see to send emails to your employees during work hours. For more information, see [Delay or Schedule Sending Email Messages in Outlook](#).

## Break and Meals

### *Meal Periods*

Non-exempt (hourly) employees must take at least a 30-minute meal break when working 6 hours or more. The employee should be relieved of all duties and allowed to take an uninterrupted unpaid break of at least 30 minutes or more for meals.

Meal periods are personal time. Non-exempt employees are encouraged to leave their work area to eat and relax. Because they are not work-related, mealtimes are unpaid.



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

## Breaks

UAB Policy allows employees to take up to two 15-minute paid breaks if a department's workload permits. This time should not be saved and added to the end of a shift or used to extend or replace lunch. See [Work \(Rest\) Break and Meal Periods \(HR Policy 621\)](#) for more information.



**REMINDER:** Non-exempt employees are required to punch in upon arriving at work, punch out for a break, punch in upon returning from a meal or break, and punch out any time they leave work for the shift or day.

## Nursing Mothers

FLSA requires UAB to provide a location and reasonable break time for a mother to express milk for her nursing child. The location cannot be a bathroom and must be shielded from view, free of interruptions, and readily available to the employee. For more information, see [Campus Lactation Centers](#).

## Overtime

### Overtime Compensation

FLSA requires employers to pay non-exempt employees 1.5 times the employee's regular hourly rate for any work performed over 40 hours in a UAB workweek. You should learn your department's overtime and compensatory time approval standards or preferences. Your direct supervisor can help.

For more information, see:

- [Working Hours \(HR Policy 618\)](#)
- [Overtime Hours \(You & UAB Handbook, Section 5.6\)](#)
- [University Campus Overtime and Compensatory Time for Non-Exempt Employees \(HR Policy 213\)](#)



**NOTE:** Non-exempt employees should receive approval from you (the supervisor) before working any overtime.

## Strategies for Managing Overtime

There are three main options for managing overtime effectively: **Flex Time**, **Overtime Pay**, and **Comp Time**.

### *Flex Time*

- **Definition:** With this strategy, you allow employees to adjust their schedules within the workweek as long as they don't exceed 40 hours.
- **Example:** If an employee works 10 hours on Monday, they can work 6 hours on Tuesday to balance it out, as long as it's within the same workweek and they have discussed it with you for approval.

### *Overtime Compensation*

- **Definition:** You (their supervisor) must approve overtime hours in advance. Employees receive 1.5 times their regular pay rate for hours worked over 40 in a workweek.
- **Example:** If an employee's regular rate is \$15/hour, they will receive \$22.50/hour for any hours worked beyond 40 in a single workweek.

### *Compensatory Time (Comp Time)*

- **Definition:** With supervisor approval, Employees can opt to receive time off for extra hours worked instead of overtime pay. For more information, see [Compensatory Time](#).
- **Example:** Employees who work two extra hours on a Friday can take 3 hours off the following Monday as Comp Time.



**NOTE:** Vacation time, sick leave, personal leave, and paid time off on holidays are not counted towards overtime pay as these are not worked hours. If an employee is asked to work extra time during a holiday or PTO week, please remember that overtime pay (or compensatory time) is unpaid until an employee has exceeded 40 worked hours in a workweek.

## Without Approval

### *What happens if an employee works overtime without approval?*

- **First Occurrence:** The employee must still be compensated for the overtime worked by law. Supervisors should address the employee with a warning and clarify expectations.
- **Second Occurrence:** If the employee continues to work overtime without prior approval, the manager may proceed to disciplinary measures, with guidance from the Office of Human Resources.

## Conclusion

By achieving the outlined objectives, you are now equipped to navigate the Fair Labor Standards Act (FLSA) complexities and, most importantly, effectively communicate these guidelines to your team.

## Key Takeaways

- Non-exempt employees must track their time in [Campus Time and Attendance](#), and you, as their supervisor, must approve it.
- Non-exempt employees must be compensated for all their work and cannot work off the clock (e.g., read and view emails).
- Off-the-clock work is not permitted at UAB.
- Accurate and consistent time tracking and recordkeeping are critical for all non-exempt employees at UAB.