

FAIR LABOR STANDARDS ACT (FLSA) AND COMPENSABLE HOURS OF WORK

The Fair Labor Standards Act (FLSA) establishes minimum wage, defines overtime and overtime compensation, identifies compensable hours of work, recordkeeping, and youth employment standards affecting employees in the private sector and in Federal, State, and local governments. These all apply to UWF.

This section of the UWF Human Resources procedures covers hours of work and pertains to non-exempt University Work Force and OPS Staff employees. For non-exempt University Work Force employees, when the total hours physically worked exceeds 40 in a workweek, defined as Sunday through Saturday at UWF, those employees are eligible for compensation in the form of overtime pay or compensatory time. OPS Staff employees are not eligible for compensatory time, but are eligible for overtime pay when their actual work hours exceed 40 in a workweek. At times, there are misunderstandings about what the FLSA does or does not require. As a summary, the FLSA does not require:

- vacation, holiday, severance, or sick pay;
- meal or rest periods, holidays off, or vacations;
- premium pay for weekend or holiday work;
- pay raises or fringe benefits; and
- a discharge notice, reason for discharge, or immediate payment of final wages to terminated employees.



When we think of work, we normally think of being engaged in a physical or mental activity that achieves a result. The activity or principal activity referred to by the FLSA may be physical, mental and/or both. We typically think only of the activities involved with the completing of specific duties and responsibilities and work hours that have been defined in our job description as work time. However, there are some activities that may be counted as compensable hours worked for non-exempt employees outside of their normal duties and responsibilities. Any work not requested but “suffered or permitted” is work time. Some of those situations and examples are:

Breaks and Meal Period

The Fair Labor Standards Act (FLSA) does not require an employer to provide time for breaks and meal periods.

- **Breaks** - Breaks are a privilege, not a right, and should be taken as the work schedule allows and with the supervisor’s approval. It is recommended that employees do take at least one break per day to refresh and get away from their work station. Going to the UWF Post Office, Commons, Bookstore, etc., constitutes a break. At the university, non-exempt University Work Force and OPS Staff employees may take a break 15-minutes in length for each four hours worked. If work breaks are taken, they must be taken between 9:00 am - 11:00 am and between 2:00 pm - 4:00 pm. UWF Policy HR-18.02-04/16, Hours of Work and Benefits (4) (d) states:
 - (d) Provisions related to non-exempt employees:
 - 1. Employees may be allowed one 15-minute work break during the first half of their work shift and one 15-minute work break during the second half of their work shift, provided that:
 - (a) An employee shall not accumulate unused work breaks.
 - (b) Work break time shall not be authorized for covering an employee’s late arrival on duty or early departure from duty.
- **Meal Periods** - Non-exempt employees must take at least a 30-minute lunch break each day



(which may not be taken at the beginning or the end of the work day). Meal periods should be at least 30 minutes or more to constitute a bona fide meal period. Meal periods are not counted as work time as long as employees remove themselves from the work location and are not performing any duties. However, when an employee remains at the work location and while eating performs any job-related duties, other than incidental ones (such as answering a question), the time must be counted as hours worked. At UWF, a supervisor may adjust an employee's work schedule to prevent an overtime situation when an employee works during a meal period.

Suffered or Permitted Work Hours

Work schedules for those employees eligible for overtime shall be arranged so overtime is not required, except in situations where the divisional Vice President determines that statutory responsibilities prescribed for the University cannot be accomplished properly unless overtime is authorized. If overtime is needed, it must be requested and approved prior to working the additional hours.



Work not requested, but suffered or permitted is still considered hours worked. This may occur when an employee begins to work prior to the beginning of the assigned shift, during the lunch hours, or continues to work at the end of the assigned shift without approval. When the supervisor has knowledge of or has reason to believe that the employee is working additional hours that have not been requested and approved, the hours must be counted as hours worked.

Travel

Official university travel, whether on regular workdays or regular days off, shall be counted as hours worked. Travel related time counted as compensable includes:

- Time to pick up a rental car,
- When travel is done by car, all time driving from home directly to the destination and the related return trip,
- Time of flights or common carriers (Bus & Train),
- Related ground transportation to hotel destination,
- Attendance at conference or meetings while on official state travel,

Travel time not included in compensable hours of work includes:

- Time at hotels when not otherwise engaged in a Conference or Official meetings,
- Time at dinner socials or non-formal related gatherings (Examples: Welcome mixers, tours and evening socializing),
- Recreational or entertainment type events,
- Early arrival for events

Medical Attention/Workers' Compensation Related

Time spent by an employee waiting for and receiving medical attention for a work-related injury or illness during the employee's normal scheduled shift constitutes hours worked. Therefore, such time is compensable as hours worked for overtime purposes.

WORK HOURS

Workweek and Regular Hours of Operation

For full-time University Work Force, 40 hours constitutes a workweek. For UWF, the workweek is Sunday through Saturday and corresponds to our biweekly pay period schedule. The University's regular hours of operation are 8:00 am to 5:00 pm, Monday through Friday. All University offices are to be sufficiently staffed during the hours of operation, except when the university is closed. Because certain university services are available to clients outside the regular hours of operation, this schedule may vary depending on the nature of the job and when services must be provided.



40 Hour
Work Week

Other Situations that May Be Considered Work Hours:

On-Call

When an employee is called back to work beyond the employee's scheduled hours of work for that day, the employee shall be credited with actual time worked, including time to and from the employee's home to the assigned work location, or a minimum of two hours of work, whichever is greater.

Required Training

Required attendance at approved training courses shall be considered as hours worked.

Emergency Closing

When the university is closed, all or in part, due to a natural disaster or an unplanned sudden emergency occurrence, only those employees who perform essential services and are required to work are permitted to work. This may include University Police or other employees designated as essential personnel for the purpose of the emergency. Supervisors will identify those personnel that are deemed essential personnel. The time spent performing essential duties during an emergency closing are considered hours worked.

Special compensatory leave is provided to non-exempt, hourly University Work Force employees required to perform essential duties during an emergency closing for the hours worked during the closing. All other non-exempt, hourly University Work Force employees shall report the emergency closing as Administrative Leave. Employees that are not required to work during an emergency closing receive administrative leave in an amount equal to their appointed FTE or in an amount necessary to bring them up to their normal hours for the workweek.

Employees already on a leave of absence, with or without pay, will not be allowed to have the leave of absence changed to administrative leave to cover the absence.

Any exempt, salaried employee required to work do not receive special compensatory leave for any hours worked during the closing.

When an emergency closing occurs, updated information will be posted on the Human Resources web page to address specific information relating to the current closing.

OVERTIME, COMPENSATORY LEAVE HOURS AND WORK ON A HOLIDAY

Compensation for Work During a Week with a Holiday

When an employee is required to work on a holiday, he/she is eligible to earn special compensatory leave. Holidays are an 8-hour benefit provided to University Work Force employees. Therefore, special compensatory leave may only be earned up to 8 hours on a day which is considered a holiday, based



upon the university's approved list of holidays.

- Non-exempt, hourly University Work Force employees are eligible to earn special compensatory leave for work on a holiday, if approved by the appropriate VP/Dean or Director ahead of time.
- Hourly OPS Staff employees do not receive the benefit of a holiday. Nor do they earn, use, or receive payment for compensatory time. Hourly OPS Staff employees are paid only for the number of hours they actually work.
- Non-exempt, hourly University Work Force employees earn special compensatory leave for work performed. When the University Work Force employee is required to work on the holiday, the following equation applies:
 - 32 hours physically worked + 8 hours physically worked on the holiday + 8 hours for the holiday not observed = 48 hours
 - In these cases, compensation is calculated as follows:
 - 40 hours of Regular Earnings + 8 hours special compensatory leave earned (delayed holiday)
- When the holiday falls on the non-exempt, hourly University Work Force employee's regular day off and the employee does not work, he/she receives special compensatory leave equivalent to the daily number of hours that they normally work.
- Non-exempt, hourly part-time employees are granted a prorated number of hours for a holiday based on their FTE (full-time equivalency).

Overtime Work

Supervisors should try to prevent situations which require compensating non-exempt, hourly University Work Force employees for more than 40 hours by adjusting the employees' work schedules during the workweek.

When the statutory responsibilities of the university cannot be accomplished unless overtime work is authorized, overtime work may be required. Overtime work is to be approved in advance by an employee's supervisor or other appropriate authority. However, such work is considered compensable for a non-exempt employee even if not authorized in advance by the supervisor.

Adjusting Workweek and/or Leave Use to Minimize Overtime or Additional Hours

A non-exempt, hourly University Work Force employee who works in excess of his/her normal hours for the workday or who works on his/her regular day off should, whenever possible, have another work day in the workweek reduced so that he/she is compensated for only 40 hours for the workweek. Supervisors should make every effort to avoid overtime compensation when possible.