



Got Money?

The Fair Labor Standards Act Can Help

Understanding the Fair Labor Standards Act

Do you get paid enough? Off the cuff, most of us will probably answer this question with a firm no. Of course, the reality is that unless we are willing to ask for a raise or find a new job, there is little we can do about our salary.

While our salary may be beyond our control, there are laws that protect our rights to fair compensation as Congressional employees. The Fair Labor Standards Act of 1938 (FLSA), as applied by the Congressional Accountability Act (CAA), extends certain basic rights and protections to all covered Congressional employees. All nonexempt employees are entitled to the minimum wage, currently \$5.15 an hour, and to overtime compensation. The FLSA also regulates child labor and prohibits sex discrimination in wages paid to men and women.

Exempt or Not Exempt

The FLSA requires overtime compensation for certain covered employees who work more than a forty hour workweek. Such employees are called "nonexempt employees." Covered employees who work in a bona fide executive, administrative, or professional capacity and who meet defined criteria are not required to be paid overtime, and are called "exempt employees."

The categorization as exempt or nonexempt is not entirely at the discretion of an employer. There are very specific criteria as to who may or may not be considered an exempt employee, and the determination depends on actual job

duties and functions, not job titles. If you do not know whether you are currently considered exempt or nonexempt, ask your supervisor.

If you have questions about whether you are properly categorized, first discuss the matter with your supervisor. If you are



still unclear about exempt-versus-non-exempt criteria and your status or want additional information, visit our web site, www.compliance.gov. You may also contact the Office of Compliance.

What is "Overtime"?

Overtime is compensation required to be paid to nonexempt employees for work performed in excess of forty hours in a workweek. Overtime pay is calculated as no less than one-and-one-half times the employee's regular rate of pay.

If an employing office does not want to pay overtime to a nonexempt employee, then the employee cannot be allowed to work more than forty hours in a week. It is important to remember both as an employee and as an employer that a non-exempt employee may not "volunteer" to waive his or her rights to overtime pay.

Not all work connected activities count toward the forty hour maximum. In general, travel to and from work and other similar activities that take place prior to or after work are not counted in the forty hours. In addition, outside activities connected to work do not always count as regular working hours. For instance, attending a concert on Capitol Hill after work would not generally be considered a part of regular working hours, but attending a reception in an official capacity for an employing office or a training seminar at the request of the employing office (both with some stipulations) would generally be considered work related activities and would count in the forty hour maximum.

Can I Get "Comp Time"?

Compensatory time, or "comp time," is additional vacation time or time off in place of overtime pay. In general, comp time may not be substituted in place of overtime pay for nonexempt employees. Specific exceptions for nonexempt employees to receive comp time do exist in the CAA and in the regulations of the Office of Compliance for employees whose schedules directly depend on the schedule of the House and Senate and for

certain law enforcement and fire protection personnel.

Changes in Department of Labor regulations concerning exempt employees and eligibility for receiving comp time in place of overtime pay are currently under consideration. These changes may result in changes to the FLSA provisions applied by the CAA.

What Does the FLSA Not Regulate?

There are many employment practices that the FLSA does not regulate. The FLSA does not govern salaries (other than the minimum wage), titles, vacation practices, holidays, or work schedules. The FLSA also does not apply to interns, as defined by Office of Compliance regulations.

What Else Do I Need to Know?

The Office of Compliance has additional information about the FLSA on our web site at www.compliance.gov, including our “Fact Sheet” on fair labor standards. Regulations implementing the FLSA in Congress and defining special circumstances and exceptions are also available on our web site and can provide additional guidance.

Please note, however, that the FLSA and its regulations are very complicated and often in flux based on changes in the law and legal interpretation. Due to the complexity of the subject, the information contained in this *Bulletin* and on our web site is intended for educational purposes only and should not be considered advice or an official ruling of the Board of Directors of the Office of Compliance. For detailed guidance on the FLSA and how it applies to you or your office, contact your employment counsel or the Office of Compliance.

More information, including answers to frequently asked questions and a printable fact sheet on the FLSA is available at www.compliance.gov

Link to the our web site's main page on FLSA:
http://www.compliance.gov/employeeights/er_fairlabor.html

Link to FLSA “Fact Sheet”:
http://www.compliance.gov/forms-pubs/publications/factsheets/fact_fairlabor.pdf



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The Office of Compliance advances safety, health, and workplace rights in the U.S. Congress and the Legislative Branch. Established as an independent agency by the Congressional Accountability Act of 1995, the Office educates employees and employing offices about their rights and responsibilities under the Act, provides an impartial dispute resolution process, and investigates and remedies violations of the Act.

This information does not constitute advice or an official ruling of the Office of Compliance or the Board of Directors and is intended for educational purposes only. For further information, please refer to the Congressional Accountability Act (2 U.S.C 1301 et seq.) and the regulations issued by the Board, or you may contact the Office of Compliance.