

Murray State College

Frequently Asked Question for Non-Exempt Employees & Supervisors

What is the Fair Labor Standards Act (FLSA)?

The FLSA is a federal law governing several time and labor issues. It establishes minimum wage, overtime pay, record keeping and child labor standards affecting millions of full-time and part-time workers in the private sector as well as in federal, state, and local governments.

What is the difference between an exempt and nonexempt employee?

The FLSA categorizes employees as either exempt or non-exempt, meaning they are either exempt (not covered) under the regulations based on duties and salary testes contained within the ACT or non-exempt (covered) under the regulations. The exempt employee is usually paid on a salary basis and does not receive extra compensation for overtime hours worked. A non-exempt employee receives time and one-half overtime compensation for all hours worked over 40 in a work week. The FLSA allows public employers to either pay or give compensatory time off to an employee, at the employer's discretion, for overtime hours worked, both at a time and one-half rate. To summarize, an exempt employee is not paid overtime and a non-exempt employee is paid overtime. A non-exempt employee must be paid for hours worked.

What happens if a non-exempt employee works more than 40 hours in a work week?

Employees whose jobs are designated as non-exempt, by law, are paid for all actual "working time" hours during the designated workweek. Employees whose jobs are designated as exempt by legal definition, are paid a salary for the job that is to be completed, with an expectation that he/she is working a minimum of 40 scheduled hours, regardless of the number of "working time" hours that may be required to get the job done within the designated work week. Therefore, a non-exempt employee who has working hours during the workweek in excess of 40 hours will have the right overtime, compensated as compensatory time (comp time) at a rate of one and one half times for each and every hour worked in excess of 40 hours in the designated work week.

What are considered "hours worked"?

A salary exempt employee is not required to document hours worked. As a non-exempt employee, understanding what counts as "hours worked" is essential.

- Working Hours including time spent outside of the workplace (calls, texts, emails)

- Working lunches or working during lunch

- On-Call on the *employer's premises*

- Travel time (outside of regular home to work travel)

- Approved professional development: Committee work, senate, lectures, campus groups

- All overtime completed, whether approved or not

What counts toward hours worked for overtime purposes?

Overtime is paid for all hours actually worked over 40 in a work week. Paid time off (vacation, sick leave, holiday pay, etc.) does not count toward hours worked. MSC uses comp time in lieu of paid overtime.

As a non-exempt employee, do I have to report all of my hours worked?

Yes. Non-exempt employee must account for all time worked. All time worked must be reported and recorded.

Since I am non-exempt employee, does this mean if I work 50 hours per week I will earn more money?
If you work more than 40 hours per week you will accrue *compensatory time*. Your supervisor may implement a new work schedule to reduce the amount of hours you work in order to manage expenses.

As a non-exempt employee, can I work more than 40 hours in a work week and decide not to report the additional hours?

No. Any hours worked in excess of 40 hours per week and any change in your normal schedule must have written supervisory approval prior to performing the work?

Can a non-exempt employee still work early and late? Can a non-exempt employee check messages from home after work hours?

Since you are non-exempt, we are focused on ensuring work hours are reported and compensated. Non-exempt employees can still request alternative scheduling arrangements with their supervisors; however, all time worked must be recorded within the Non-Exempt Leave Report. All current and future alternative scheduling arrangement will have to be revisited with your supervisor, within understanding as to when overtime is permissible.

Can my work hours change within a work week?

Yes, with your supervisor's prior approval. Non-exempt employees must account for all time worked during the work week in which it is worked so that compensatory time off is compensated accurately. For example, rather than working 8 hours on Monday and Tuesday, you might be approved to work 10 hours on Monday and 6 hours on Tuesday. Any change in schedule must be approved in advance.

Can I work 50 hours one week and 30 hours the next yet record 40 hours of work each week since it adds up to 80 hours?

No. There are two reasons:

- 1) As a non-exempt employee you must account for all time worked during the work week in which it is worked. In this example, you would be paid 40 hours plus 10 hours of overtime (or compensatory time off) for the week you worked 50 hours.
- 2) As a full-time employee, you must account for at least 40 hours per week, including hours worked and/or paid time off. In this example, in the week you worked 30 hours, you must be paid for 10 hours of paid time off in order to total 40 hours.

Can my supervisor require me to work extra hours and not pay me for it if I am non-exempt?

No. MSC is required to compensate you for all hours worked, including time worked in excess of 40 hours in a work week. Any hours worked over 40 will count as comp time. The President must approve any overtime that will be paid to an employee.

Can I volunteer to work more than 40 hours without pay of compensatory time off?

No. MSC is required to compensate you for all hours worked, including time worked in excess of 40 hours in work week.

How much comp time can I earn?

Current policy states all overtime worked must be approved in advance by your immediate supervisor. The maximum compensatory time which may be accrued by an employee shall be 128 hours.

When can I take my comp time?

You may schedule comp time like vacation. Per policy, comp time is to be used before vacation and must be permitted on the date you request unless the time off would "unduly disrupt" the operations of your area. Use of comp time can also be assigned by a supervisor. Example: You are needed to work extra hours during a heavy enrollment period or had to come in due to on-call. The supervisor can then assign time off

in the following days, weeks, or month to give you the time of you earned or when it is convenient for the department.

Don't I have to be paid overtime?

Public colleges are allowed to pay with comp time instead of overtime “dollars”, since we establish that relationship with you through policy when you are hired. However, if you accrue a lot of comp time and the department is not able to give you time off, then management can choose to pay for your comp time to reduce the balance.

Do I have to take my comp time? Can't I just let it accrue like vacation?

Comp time not vacation is intended to be saved as a way to bank income. Murray State College provides annual leave with pay for eligible employees for the purpose of rest and relaxation. Comp and vacation time are both financial liabilities to MSC, and therefore should be taken on a regular and consistent basis. Your supervisor should be encouraging you to schedule and take earned time to keep balances within reason.

As a non-exempt employee, can I still work early or late? Can I check my emails from home?

Non-exempt employees can make arrangements and obtain approval from their supervisor to work from home, to check messages at night or to change their daily schedule to different hours. However, all time worked must be accounted for and recorded as time worked. All overtime and any alternative work arrangement must be approved in advance by the employee's direct supervisor.

I routinely travel on business. Do I need to track ALL my travel time?

Not all time “away” is considered working time. There is a Department of Labor fact sheet that may answer some of the most common travel time questions.

Home to work travel?

An employee who travels from home before the regular workday and returns to his/her home at the end of the workday is engaged in ordinary home to work travel, which is not work time.

Home to work on a special one-day assignment in another city?

An employee who regularly works at a fixed location in one city is given a special one-day assignment in another city and returns home the same day. The time spent in traveling to and returning from the other city is work time, except that the employer may deduct/not count that time the employee would normally spend commuting to their regular work site.

Travel that is all in a day's work?

Time spent by an employee in travel as part of their particular activity, such as travel from job site to job site during the workday, is work time and must be counted as hours worked.

Do I have to take my lunch breaks?

MSC believes that time away from work during the work-day is good for employees to allow for eating a meal, resting and relaxing, or conducting other personal business. Therefore, MSC schedules an unpaid lunch break period of one hour per work-day for full-time employees. Lunch break time is not to be accumulated, or otherwise used to shorten the workday or workweek.

Do I get work breaks?

A brief break from work is extended to employees as a privilege and not a right. Breaks should be arranged with the supervisor. The college approves up to two daily breaks of no more than fifteen minutes each.

On-Call?

An employee who is required to remain on-call on the employer's premises is working while "on-call." An employee who is required to remain on-call at home, or is allowed to leave a message where he/she can be reached, is not working (in most cases) while on-call.

Can my supervisor adjust my work week after I've had to be on-call?

Yes, your supervisor can adjust your work week to fit the needs of the department or to manage comp time accruals.