

Implementing the Fair Labor Standards Act in Local Extension Units

The federal Fair Labor Standards Act (www.dol.gov/compliance/laws/comp-clsa.htm) prescribes payroll standards for public and private employers. The FLSA designates which employees are, or are not, subject to overtime pay. Extension agents are exempt under the teacher exemption, and thus not eligible for overtime pay. It has been determined that extension office professionals, program assistants, program managers and interns are non-exempt employees and thus are subject to the Fair Labor Standards Act. Therefore, they must be compensated for each hour worked and with overtime/compensatory time for any hours worked over 40 in a work week.

Following are guidelines for implementing the FLSA:

- 1) The FLSA requires that the following records be kept:
 - a daily and weekly record of hours worked with overtime hours over 40 recorded separately
 - the employee's name

KSU form 8-25 or a similar form from an office supply store can be used to record hours worked.

- 2) Each local extension board should establish their work week. The standard work week is Sunday through Saturday. However, an employer can set their work week to begin and end any day (example: Thursday through Wednesday). Once the work week has been established it can't be changed from week to week.

Each work week stands alone - weeks can't be "averaged." For example an employee can't work 60 hours one week and 20 hours the next and then report that they have worked 40 hours per week.

- 3) Non-exempt employees - office professionals, program assistants and interns - are to be compensated for each hour worked in quarter hour increments. Compensatory time or overtime is to be awarded for any hours over 40 in a work week. The local extension board should have a policy stating whether they pay overtime or award compensatory time. Compensatory time is 1.5 hours of paid time off for each hour of work over 40 in a week. Overtime is the hourly rate of pay x 1.5 for each hour worked over 40 in a work week.

For ease in accounting the monthly pay of employees can be computed by multiplying the hourly pay x the normal hours in a work week x 52 weeks. This figure is then divided by 12 to determine the monthly compensation. Hours worked beyond 40 in a work week are compensated by the awarding of compensatory time off or payment of overtime during the pay period in which it was earned.

4) With the approval of the local extension director a non-exempt employee can flex their 40 hours during the work week. For example they might work 10 hours four days during the week rather than the typical 8 hours per day for five days.

5) The local extension board should establish a policy that any hours beyond the normal weekly work schedule must be pre-approved by the local extension director.

It is also recommended that local boards establish a policy that compensatory time, if earned, must be used before vacation and that the compensatory time must be used within a certain time frame from when it was earned (two months for example).

Overnight Activities

If an employee is scheduled to work during an overnight event such as 4-H camp, it should be clear to them before the event begins when they will be on-duty and off-duty. For example, during off-duty times at camp, they can participate in camp activities if they choose, but it must be clear that they are off-duty. If an employee's sleep is interrupted by a camper needing care, that time should be reported as work time.

Travel Time

To and from work - Time spent traveling from home to the work site is not compensable.

Travel during the work day - Travel time during the work day, such as from the office to a meeting site, is compensable.

One day out-of-town travel - If an employee travels out-of-town for less than one day, they must be paid for all travel time from their work station to the out-of-town event.

Overnight travel - Employees who travel overnight on business must be paid for time spent traveling (except for meal periods) during their normal working hours on their regular working days. They also must be paid for travel during normal working hours on their non-working days such as Saturdays, Sundays and holidays. Time spent traveling on business, outside their normal working hours, is not compensable.

An employee can't "volunteer" for a responsibility which could reasonably be a part of their work responsibilities. For example - an employee could voluntarily attend the extension sponsored farmer's market as an interested community member. However, helping with extension's educational booth at the market could reasonably be an expectation of their employee position so they could not "volunteer" to assist the agent at the booth.

Contact the area extension director or Stacey Warner at swarner@ksu.edu or 785-532-5790 for other situations. Additional information is also available in the K-State Human Capital Services website.

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