

# NSU Supervising Training

Fair Labor Standards Act (FLSA)  
Transition



**NORTHEASTERN**  
STATE UNIVERSITY



## How It Impacts You/Your Employees

### The Struggle is Real

Possibly change in flexibility

Supervisors must manage workflow more efficiently while retaining effectiveness

Employee may feel downgraded

Additional tasks to accomplish

### Opportunities

Non-exempt employees compensated for their overtime

Can lead to innovative improvements

Review of job descriptions and responsibilities



## Why This Matters So Much

- Supervisors can be held liable for violations of FLSA... and so can employees!
- As an employee, you cannot legally falsify your time card whether doing so is in your favor or the employers' favor.
- As an employee, you may not enter into any private agreement or settlement, written or otherwise, that waives or alters your 'substantive rights' under FLSA.
  - Overtime pay claim is considered a substantive right
- DOL investigations can occur randomly and investigators look for red flags such as:
  - “pencil whipped” timecards
  - Timekeepers who approve time for those they are not monitoring
- NSU is committed to cultivating and maintaining a positive work environment which requires a safe, secure, and ethical workplace.



## **NSU adopts compensatory time system**

- NSU will enact a compensatory time system (comp time) to accommodate pre-approved overtime worked.
- All overtime must be pre-approved. Employees should notify supervisors if they anticipate working over 40 hours in a seven day workweek.
- An employee who has working hours in excess of 40 hours during the work week will receive compensatory time (comp time) for all hours worked in excess of the 40 at a rate of one and one-half times.



## Comp Time Earned

- According to FLSA, the employee generally may not accrue more than 240 hours.
- NSU recommends a balance of no more than 30 hours of banked comp time. Therefore, an employee would need to take time off to reduce his/her comp time balance before working additional overtime.



## Comp Time Taken

- Comp time can be scheduled like vacation. According to NSU policy, comp time is to be used before vacation.
- The University will grant the time off request at the convenience of the employee, but reserves the right to deny leave when and if a hardship or disruption for the department may result.
- As a supervisor, you can also assign comp time.



## Payment for Comp Time

- According to the FSLA, public universities or colleges that qualify as a “public agency” may compensate overtime eligible employees through the use of compensatory time off or comp time in lieu of cash payment.
- No additional overtime budgets have been established.
- Comp time that has not be used at the end of the fiscal year will be paid out and charged to the appropriate organization budget.



## **Comp Time Accrual**

- Comp time nor vacation time are intended to be saved as a way to bank income.
- They are both financial liabilities to NSU 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.





## **How to Manage Comp Time Accrual**

- Weekly Exception Reports
- Comp time to be used before vacation.
- Accrued comp time is paid out upon termination or moving to an exempt position



## What is Compensable?

- Emails, calls, texts outside of standard work hours
- Approved professional growth and development
  - Job related training(NSU or offsite), committee work, campus association
- Time spent traveling for work/permitted work related activities
- Working lunches or completing work during lunch
- **Any overtime completed, whether approved or not**



## **What is Not Compensable**

- Employee wishes to attend a non-work related event on campus (party, etc.).
- Employee wishes to take NSU/outside training course to increase non-work related skills.
- Employee eats lunch at desk without completing work and is briefly interrupted.
- Employee takes a long lunch, outside of lunch break policy.
- Employee calls or texts you to let you know that they will be late or absent from work that day.



## Hours Worked

- Only hours *actually worked* are included in the calculation of comp time earned at the rate of 1.5. Vacation, personal leave, comp time taken and holidays are not considered “worked” hours. These hours are compensable at the straight time rate of 1.0.
- Example:

Sun	Mon	Tues	Wed	Thu	Fri	Sat
	8-noon 1-5	8-12:15 1:15 - 5	8 HOL 9 -noon	8 HOL	8 HOL	

- Hours worked = 19; Holiday = 24 Total hours 43
- Comp earned 3 hrs @ straight time



## **Work Scenarios**

- One week, an employee worked for 8 hours each day from Monday to Wednesday, and 10 hours on Thursday Friday.
- Total of 44 hours, equal to 4 hours of overtime and would be compensated with 6 hours of comp time.



- In one week, the employee works for 10 hours on Monday, 8 hours each day from Tuesday to Thursday, and then works only 4 hours on Friday.
- The employee worked 38 hours, fewer than the required weekly number. No comp time earned



## What would you do?

- Your only non-exempt employee asks if they can attend a baby shower in the CASE building during their standard working hours. The honoree is a close work friend and everyone else in the office, including you, is going.
- Your employee texts you at 7 am to let you know that they are ill and will not make it in. There is a meeting you and another will need to attend in their absence. You text back to ask if there is anything you need in preparation for that meeting.

# WTE- TimeApprovers



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## **What are my next steps**

- Communicate with your employee about effective use of time.
- Consideration of workflow for process improvements and adjustments.
- Seek assistance from HR or Payroll before making changes to ensure proper procedures are followed.



## What policies should be revisited

### Overtime Rules

Comp time is based on hours in a work week

Employees working unapproved time may be a discipline issue

### Lunch & Break Rules

Valid lunch periods are not time worked

Short breaks are on the clock

### Other

Travel rules are being developed

Non-exempts working more than one job



## Resources/Info

- NSU HR Website-FLSA tab
- <https://offices.nsuok.edu/humanresources/FairLaborStandardsAct%28FLSA%29.aspx>
- Employee Handbook-currently under construction due to changes. Handbook revisions are pending final decision.
- NSU Portal More details about what access
- Payroll Calendar
- [Compliance Assistance - Wages and the Fair Labor Standards Act \(FLSA\)](#)



# We are Here to Help

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