



# Minot State University

## Policy Manual

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### Overtime

Source: NDUS Human Resources Policy, Section 12

1. Minot State University (MSU) complies with the federal overtime provisions outlined in the Fair Labor Standards Act (FLSA). Nonexempt employees who work more than 40 hours in a workweek will be compensated at one and a half times the rate of pay. Employees may receive compensation in one of two ways: overtime pay or compensatory time off (comp time). In order to control University costs, flextime is encouraged to avoid overtime or the use of comp time. The supervisor, in such instances, is responsible for arranging flextime with employees prior to the performance of work. The flextime arrangement should be limited to the purpose of overtime/compensatory time control and stay consistent with other University policies. The employee's supervisor must preapprove all overtime, comp time and flextime.
2. Compensatory time off may be used in lieu of overtime compensation and must be at a rate not less than one and one-half hours for each hour of work for which overtime pay would normally be required. There must be an agreement between the employee and supervisor, prior to the performance of work, to substitute compensatory time-off for overtime pay. It is recommended that the agreement be in writing.
  - 2.1 The FLSA is applied on a workweek basis. An employee's workweek is a fixed and regularly recurring period of 168 hours (seven consecutive 24-hour periods). It need not coincide with the calendar week, but may begin on any day and at any hour of the day. Different workweeks may be established for different employees or groups of employees. Averaging of hours over two or more weeks is not permitted.
3. Compensatory time accrual is limited to 90 hours (60 hours at time and a half = 90). Upon reaching the limit, an employee must receive cash either for additional hours of overtime worked or use some of the comp time before accruing additional overtime pay in the form of compensatory time off.
  - 3.1 The supervisor must preapprove overtime hours.
  - 3.2 The employee and supervisor must agree on the use of comp time or flextime prior to any work taking place.
  - 3.3 It is a department's decision whether to offer comp time. If compensatory time off is offered by the department, the employee may determine whether they receive comp time or overtime pay for time worked over 40 hours in a work week.
  - 3.4 Work that is not requested by a supervisor but is permitted must be counted as hours worked.

- 3.5 If overtime is used without prior approval, the circumstances will be investigated and disciplinary action, up to and including termination, may result.
- 3.6 Comp time must be taken within six months of the overtime hours worked. Employees may only accrue 90 hours of comp time. 60 hours of overtime work is equal to 90 hours of comp time.
4. Upon approval, by the division vice president, compensatory time may only be used in place of regularly scheduled work hours and shall not cause overtime. The time off must be taken within six months of the overtime hours worked. The max comp time balance is 90 hours (60 hours of additional time worked x 1.5)
  - 4.1 Official closings and holidays are counted as hours worked during a workweek. In establishing a forty-hour workweek, annual leave, sick leave, official closings and holidays shall be counted as hours worked. Annual leave, sick leave, other forms of paid leave, and compensatory time shall not be counted for overtime purposes.
5. These provisions are not applicable to exempt employees as identified by federal wage and hour criteria. The department head, however, may arrange time off in recognition of required, continuous or excessive overtime for employees exempt from overtime. In order to be considered "exempt" from the overtime provisions of the Fair Labor Standards Act depends on duties, responsibilities and salary. Contact the Office of Human Resources for assistance in determining exempt status.
  - 5.1 The Office of Human Resources is responsible for periodic reviews of positions to ensure proper identification as exempt or non-exempt pursuant to definitions provided within the Fair Labor Standards Act.
6. An employee not at work or on duty and called back for emergency service shall receive compensation in accordance with the institutional agreement in effect or at the rate of time-and-one-half. Guaranteed minimum pay for callback to a work site when required will be two hours at time-and-one-half and guaranteed minimum pay for callback when return to the work site is not required, for example, when services are provided from home by telephone, is fifteen minutes at time-and-one-half. Temporary employees shall be paid time-and-one-half for hours worked in excess of forty hours per week.
7. All non-exempt employees properly authorized to work during a delayed opening or campus closure shall receive additional pay at straight time rates for hours worked during the official closing, unless the employee exceeds 40 hours in the work week.
8. When employing an individual that works in another agency, administrators should be aware that the state, not an individual agency, has been determined to be the employer. This has resulted in overtime liability for both agencies.
  - 8.1 For employees that work at more than one position with different rates of pay, a weighted average will be used to compute the hourly rate for overtime.
9. Non-exempt employees will report approved overtime hours worked in the Time and Labor module of PeopleSoft, which their supervisors will submit to payroll. The Absence Management module in PeopleSoft is used by employees to request time off, which supervisors can then approve. This applies to all types of leave including annual, sick, dependent sick, comp time, jury duty, military and funeral.

10. Unused compensatory time off must be paid upon separation. The rate of pay must be either the employee's final regular rate or the average regular rate received by the employee during the last three years of employment, whichever is higher.

Resources:

Hours Worked Under the Fair Labor Standards Act (FLSA)

<https://www.dol.gov/whd/regs/compliance/whdfs22.htm>

Direct inquiries to: HR Director / EEO/AA / Deputy Title IX Coordinator, Administration 2 FL, 701-858-4610, [hr@minotstateu.edu](mailto:hr@minotstateu.edu)

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