



Compensatory Time and Overtime Pay Frequently Asked Questions

Because of the new FLSA standards, effective December 1, 2016, it is imperative that all Lander employees educate themselves about overtime and/or compensatory time, as it pertains to both exempt and nonexempt associates, in order to protect their rights.

❖ What is the standard workweek for Lander?

Lander's standard workweek is a seven-day period beginning at 12:01 a.m. on Saturday and ending at midnight on Friday. The minimum hours worked during this time is set at 37.5 hours.

❖ What are hours worked?

In general, "hours worked" includes all time an employee must be on duty, on the employer's premises, or at any other prescribed place of work, lasting from the beginning of the first principal activity of the work day to the end of the last principal activity of the workday. Also included is any additional time the employee is scheduled or permitted to work, including device usage for the purpose of work, or when the employee is on-call but must remain accessible to the point that his/her time is not free to use for his/her own purposes.

❖ What are not considered hours worked?

Meal periods when the employee is completely relieved of duty; paid leave, unpaid leave, or holiday leave hours; and on-call hours when the employee is essentially free to use the time for his/her own purpose are not considered hours worked, and are not compensable.

❖ Are meal times while working considered hours worked?

If an employee is permitted to work, actively or inactively, during the regularly scheduled meal period, then that time is compensable, regardless of location. This includes supervisory responsibilities and answering phones, even if sitting at one's desk. Only if the employee is completely relieved of duties is the time not compensable.



❖ **What is overtime pay?**

Overtime pay is pay that is received at the rate of one and one-half (1 ½) times the nonexempt employee's regular hourly pay for hours worked over 40 in a workweek. Hours worked between 37.5 and 40 hours in a workweek are not considered overtime, as State salaries are based on 40 hours per week.

❖ **What is compensatory time?**

Compensatory time is paid time off, given in lieu of overtime pay, for hours worked over 40 in a standard workweek. For every one overtime hour worked, the nonexempt employee is entitled to one and one-half (1 ½) hours of paid leave.

State agencies are allowed to grant compensatory time off in lieu of overtime pay. All compensatory time accrued and used should be reported to the Office of Human Resources.

❖ **Who is eligible for overtime pay and compensatory time?**

Only nonexempt employees are eligible for required overtime pay or compensatory time.

❖ **Is overtime pay or compensatory time given for hours worked between 37.5 and 40?**

No, state salaries are based on a 40-hour workweek.

❖ **Is there a limit to how much compensatory time I can accrue?**

A nonexempt employee cannot accrue more than 240 hours of compensatory time or 480 hours for law enforcement. Once a nonexempt employee reaches 240 hours of accumulated compensatory time, any overtime hours in excess of that will be paid overtime wages.

❖ **Does compensatory time for a nonexempt employee disappear if unused?**

If a nonexempt employee terminates or transfers to another state agency, is promoted or reassigned to an exempt position, or if their current position status is changed to exempt, then compensatory time will be paid out at a rate of compensation not less than either the average regular rate received by the employee during the last three years of employment, or the final regular rate received by the employee, whichever is higher.



Compensatory time should be used within 90 days if at all possible with the approval of the supervisor.

❖ **Is compensatory time allowed for exempt employees?**

The FLSA does not require overtime compensation for exempt employees; however, compensatory time may be granted on an hour-for-hour basis for each hour worked over 40 in the official workweek. It will be the responsibility of each department head to develop procedures for the authorization and use of compensatory time for exempt employees, and keep records to substantiate the consistent application of procedures.

❖ **Does compensatory time for an exempt employee disappear if unused?**

Compensatory time off may be scheduled with supervisory approval, but it is possible that an exempt employee will not be able to use all their compensatory time. Upon separation of employment, exempt employees will not receive a payout for unused compensatory time.

Under no circumstances will an exempt employee be allowed to accumulate more compensatory time than the FLSA allows for a nonexempt employee.

❖ **Does overtime work require prior approval?**

Employees are instructed not to work overtime unless authorized in advance by his/her supervisor/manager. Any hours that would result in overtime PAY MUST be approved in advance by the Vice President for Business and Administration or his designee.

❖ **Who determines whether the employee receives compensatory time or overtime pay?**

All nonexempt employees will earn compensatory time unless your position has been approved by the Vice President for Business and Administration for payment in lieu of time.