

GA FSDO Presentation On FLSA and Overtime

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FLSA What is it?

- **FLSA is the acronym for Fair Labor Standards Act.**

The Fair Labor Standards Act of 1938, as amended (referred to as “the Act” or “FLSA”), is published in law in sections 201-219 of Title 29, United States Code (U.S.C.).



FLSA What is it? Cont.

The Act provides for minimum standards for both wages and overtime entitlement and spells out administrative procedures by which covered work time must be compensated. Also included in the Act are provisions related to child labor, equal pay, and portal-to-portal activities. In addition, the Act exempts specified employees or groups of employees from the application of certain of its provisions.

In 1974, the FLSA was extended to employees of the United States Government.



Who does FLSA or the Act apply to?

Nonexempt employees.

**Am I a Nonexempt employee how
do I find out my status?**

**Look on your SF 50-B
Block 35.**



Hours of Work

1. The **Administrative Workweek** is a period of seven consecutive calendar days which, in the FAA, begins at 0001 hours Sunday and ends at 2400 hours (midnight) the following Saturday.
2. The **Regularly Scheduled Administrative Workweek** is the period employees are regularly scheduled to work within the administrative workweek



Hours of Work Cont.

- For FLSA **nonexempt employees**, hours of work means **all time spent by an employee performing an activity for the benefit of an agency and under the control or direction of the agency**. This statement sounds simple, but the determination is not always easy to make. Many factors must be considered, such as applicable regulations (e.g. 5 CFR Part 550 for hours of work for travel), provisions of law, Comptroller General decisions, OPM policy guidance, Agency policy and regulations, and/or negotiated agreements. Hours of work includes:



Hours of Work Cont.

Time during which an employee is required to be on duty;

Time during which an employee is suffered or permitted to work;

Waiting time or idle time which is under the control of an agency and which is for the benefit of an agency;

Hours in a paid nonwork status (e.g., paid leave, holidays, compensatory time off, or excused absences).

Time spent in travel status, if criteria are met

Time spent in training, if criteria are met



Hours of Work Cont.

Hours in an **unpaid nonwork status** (e.g., leave without pay, furlough, absence without leave) are not hours of work.

It is important to remember that the Fair Labor Standards Act only addresses matters concerning **overtime and minimum wage entitlement**. The premium pay provisions of 5 CFR Part 550 must be used for determining hours of work for other premium pay entitlements such as holiday, night, or Sunday pay.



Management Responsibility for Scheduling Work

Managers are responsible for scheduling the work of employees to accomplish the mission of the Agency. FAA Order 3600.6, *Workweeks and Hours of Duty*, provides a general description of the basic workweek as Monday through Friday with working hours that are the same each day.

Before you work beyond your scheduled duty time you must have approval by your supervisor.



Overtime Definitions

OVERTIME

FLSA Nonexempt: PRIB #006 defines overtime as hours of work in excess of 40 hours in an administrative workweek, 80 hours in a pay period, or hours in excess of a full-time employee's scheduled tour of duty.

For employees on an alternative work schedule, overtime is defined as hours officially ordered and worked in excess of their scheduled workday.

In determining hours of work for overtime, paid absence is included when counting hours of work



Overtime Definitions

Regularly Scheduled Overtime

FLSA Nonexempt: Regularly scheduled overtime is overtime that is scheduled before the start of the administrative workweek. The administrative workweek begins at 0001 hours on Sunday.

Overtime is also considered regularly scheduled if the supervisor knew in advance or should have known in advance of the administrative workweek that the overtime work would be required.

Regularly scheduled overtime must be compensated as paid overtime.

FLSA Exempt: Guidance shown above for FLSA nonexempt applies to FLSA exempt employees.



Overtime Definitions

Irregular or Occasional Overtime

FLSA Nonexempt: Irregular or occasional overtime is defined as overtime work that was not scheduled before the start of the administrative workweek. The administrative workweek begins on Sunday at 0001 hours.

Example: Assigned work scheduled after the start of the administrative workweek .

FLSA Exempt: **Guidance and example shown above for FLSA nonexempt applies to exempt employees**



Overtime Definitions

Suffered or Permitted Overtime

The time during which a nonexempt employee is suffered or permitted to work is hours of duty and is compensable as overtime. If the employee voluntarily undertakes work, and the supervisor knows or has reason to believe that the work is being performed and does not stop it, the work is compensable and must be paid as overtime work. Typical cases of suffered and permitted overtime work include employees working through the lunch break, on a regular day off, or after normal duty hours.



Overtime Definitions

Suffered or Permitted Overtime Cont.

Under FLSA, an employee must be paid for work that is:

- i) performed for the benefit of the agency, and
- ii) the supervisor knows or has reason to believe the work is being performed, and
- iii) the supervisor has not taken steps to prevent the employee from working.

FLSA Exempt: The concept of “suffered or permitted” overtime does not apply to FLSA exempt employees



Overtime Definitions

Callback Overtime

FLSA Nonexempt: Callback overtime pay is provided to an employee for the inconvenience of being called back to his/her place of employment to perform “unscheduled duty” and is paid at a minimum of two hours of overtime pay or compensatory time.

Callback overtime is paid when an employee is required to return to his/her place of employment or travel directly to a temporary duty site for unscheduled duty:



Overtime Definitions

Callback Overtime Cont.

Callback overtime is paid when an employee is required to return to his/her place of employment or travel directly to a temporary duty site for unscheduled duty:

- i) On a regular workday before or after his regularly scheduled tour of duty. If the work is continuous with the employee's scheduled hours of work, then it is not callback.**
- ii) Outside the scheduled hours of his regular tour on a holiday; or**
- iii) On one of his/her scheduled non-workdays.**



Overtime Definitions

Callback Overtime Cont.

If an employee is required to perform overtime work during non-duty hours and the work is performed without leaving the employee's site, such as at a residence, overtime is paid for actual time worked. The two-hour minimum does not apply.

Overtime that is scheduled in advance of the administrative workweek is “scheduled” overtime work and is not covered by the two-hour minimum pay requirements for call-back duty.

FLSA Exempt: Definition and examples shown above for FLSA nonexempt apply to exempt employees.

Conclusion

Disclaimer

This is to let you know that this briefing is an introduction to FLSA and attorney's are paid big money to interpret the law. This briefing covers most of the situations that we can be involved in as Flight Standards Employees.

If you are unsure of your situation ask your supervisor before you do the work beyond your scheduled tour of duty.



Questions

