



Compensation Resource

A Guide to Paying Employees at Marquette University

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How to Use This Guide

This booklet is intended to provide University supervisors and employees with practical information in determining and implementing fair and equitable pay decisions for employees.

This easy-to-read guide contains information in clear terms to help you better understand complex federal and state wage and labor laws. We encourage you to use this booklet as a resource to help us stay in compliance and pay employees correctly.

Compensation Philosophy

Marquette University is a Catholic, Jesuit university dedicated to serving God by serving our students and contributing to the advancement of knowledge. Our mission, therefore, is the search for truth, the discovery and sharing of knowledge, the fostering of personal and professional excellence, the promotion of a life of faith, and the development of leadership expressed in service to others. Marquette University is committed unreservedly to open and free inquiry and to the development of the student as a total human person.

The total compensation program is designed to meet the following key objectives:

- **Mission Driven**

The total compensation system is driven by the mission of Marquette University. Marquette University's primary goals focus on the development of our students and establishing a commitment to the pursuit of excellence in all things as a life-long endeavor. We take seriously our responsibility to foster and support excellence in teaching and research, to keep a Marquette education accessible to a diverse population of students, and to offer personal attention and care to each member of the Marquette community. Our total compensation system is designed to recognize the contribution that each employee makes to this mission.

- **Internally Equitable & Externally Competitive**

We believe that each employee is an investment in our future. Fair and equitable treatment for all employees is an important objective of our total compensation system. The organization recognizes that the labor market functions like any other market and in order to recruit and retain staff, external market forces need to be acknowledged in the design of pay and benefit offerings. The emphasis, however, is on internal equity. We also believe that the benefits provided by Marquette University (comprehensive benefit package, tuition remission programs, training and development opportunities) add significant value in establishing a competitive total compensation package.

- **Performance Based**

Marquette University encourages pay for performance through the use of a merit pay system. This is an important component of our employees' salary progression and is dependent upon his/her role and performance in furthering our mission. This feature of our compensation system provides the capability to recognize outstanding performers.

- **Valid & Reliable**

Marquette University strives to ensure that pay decisions are made as objectively as possible. Our compensation system relies on formal mechanisms to reconcile reliable market data with internal equity.

- **Consistent**

Our total compensation system is designed to encourage consistent administration of pay practices across the entire organization. Our commitment to consistent pay administration is demonstrated through annual training programs provided by the Human Resources Department, **and adherence to uniform and equitable pay practices by all departments, units and divisions on campus.**

Federal and Wisconsin Wage and Labor Laws

Marquette University abides by all federal and Wisconsin wage and labor laws, including, but not limited to:

- Fair Labor Standards Act (FLSA); and
- Wisconsin Labor Standards laws

Additional wage and labor laws may be applicable. University supervisors and employees are responsible for upholding these laws to ensure compliance and avoid violations against and penalties paid by the University.

Fair Labor Standards Act (FLSA)

The primary objective of the Fair Labor Standards Act (FLSA) is to protect workers' rights. The FLSA is enforced by the U.S. Department of Labor (DOL) Wage and Hour Division. The FLSA was established in 1938 and most recently amended in 2004.

The FLSA establishes the following:

- minimum wage;
- overtime pay;
- recordkeeping; and
- child labor standards.

Other provisions of the FLSA define the following:

- exemption categories (i.e. exempt and non-exempt);
- hours of work; and
- violations and penalties.

Covered non-exempt workers are entitled to minimum wage. Overtime pay at a rate of not less than one and one-half (1.5) times an employee's regular rate of pay is required after completing 40 hours of work in a workweek which at Marquette University is Sunday thru Saturday. Additional information regarding FLSA can be found in Marquette's University Policies and Procedures UPP 4-01: Compliance with the Fair Labor Standards Act (<http://www.marquette.edu/upp/documents/upp4-01.pdf>).

Minimum Wage

Covered, nonexempt workers are entitled to a minimum wage of \$7.25 per hour effective July 24, 2009. Nonexempt workers must be paid overtime pay at a rate of not less than one and one-half times their regular rates of pay after 40 hours of work in a workweek.

Wages required by the FLSA are due on the regular payday for the pay period covered. While the FLSA does set basic minimum wage and overtime pay standards and regulates the employment of minors, there are a number of employment practices which the FLSA does not regulate.

For example, the FLSA does not require:

- vacation, holiday, severance, or sick pay;
- meal or rest periods, holidays off, or vacations;
- premium pay for weekend or holiday work;
- pay raises or fringe benefits; or
- a discharge notice, reason for discharge, or immediate payment of final wages to terminated employees.

Also, the FLSA does not limit the number of hours in a day or days in a week an employee may be required or scheduled to work, including overtime hours, if the employee is at least 16 years old.

Child Labor

Both the Department of Labor and Wisconsin's Department of Workforce Development oversee child labor rules. Child labor rules vary depending upon the age of the young worker and his or her occupation.

A youth 18 years or older may perform any job, whether hazardous or not, for unlimited hours. **A youth 16 or 17 years old** and a **youth 14 and 15 years old** may be employed only during certain hours of the day and of the week. The time of day and types of employment in which they are allowed to work depend on both the age of the minor and whether or not school is in session during that week.

Marquette University is responsible for having a work permit on file for a given minor before allowing that minor to work in his or her department. Additional information regarding work permits can be found in Marquette's University Policies and Procedures UPP 4-26: Working with Minors (<http://www.marquette.edu/upp/documents/upp4-26.pdf>).

Note that minors may not be employed more than six days per week unless working in agriculture and all minors must have at least a 30-minute meal break if they work more than six consecutive hours.

Employee Exemption Status

The Fair Labor Standards Act (FLSA) distinguishes exempt and non-exempt positions and explains compensable time, including pay for overtime, rest/meal periods, training, on-call time, and travel time.

The University's pay practices and procedures are governed by the FLSA, its amendments, and regulations.

Marquette University exempt and non-exempt employees are classified in the following manner:

Exempt employees are:

- paid on the *monthly* pay cycle;
- paid an established salary;
- not eligible for overtime pay; and
- paid a salary which is not determined by the number of hours worked.

Non-exempt employees are:

- paid on the *biweekly* pay cycle;
- eligible for overtime pay at time-and-one-half;
- paid for each hour worked; and
- required to record hours worked.

Additional information regarding position classifications can be found in Marquette's University Policies and Procedures UPP 4-12: Job Classifications, Position Evaluations and Upgrades. (<http://www.marquette.edu/upp/documents/upp4-12.pdf>).

Exempt Employees and Allowable Salary Deductions

The University is allowed to make deductions from the salary of an *exempt* employee for the following reasons:

- full-day absences for personal reasons or sickness if vacation and/or floating holiday accruals are exhausted;
- days not worked in the initial/final weeks of employment;
- unpaid disciplinary suspensions of one or more full days imposed in good faith for workplace conduct rule infractions;
- hours taken as unpaid leave under the Family and Medical Leave Act (FMLA); and
- violations of major safety rules.

In any week in which an exempt employee performs any work, salary deductions are not permitted for the following reasons:

- A deduction of a day's pay because the employer was closed due to inclement weather;
- A deduction of three days' pay because the exempt employee was absent for jury duty;
- A deduction for a two-day absence due to a minor illness when the employer does not have a bona fide sick leave plan, policy or practice of providing wage replacement benefits.

Salary deductions in less than full-day increments are not permitted unless authorized under FMLA.

Determining Exemption Status

Three tests are used to determine a position's exemption status; an employee must meet all of the tests to be considered an exempt employee.

The tests include:

- salary-level test;
- salary-basis test; and
- job-duties test.

Salary Level Test

An employee's salary must meet or exceed \$455 per week / \$23,660 annually. This salary level cannot be pro-rated for part-time employees.

Salary Basis Test

If the employee regularly receives a predetermined amount of compensation each pay period, the position may be exempt. Compensation cannot be reduced because of variations in the quality or quantity of the work performed. The employee need not be paid for any workweek when no work is performed.

The employee must be paid the full salary for any week in which he/she performs any work with a few exceptions.

Job Duties Test

The FLSA identifies categories of work which qualify for exempt status for which an employee must meet at least one of the following:

- executive;
- administrative;
- professional (and computer professional); or
- outside sales

Exemption Categories

An employee who spends a majority of his/her time performing exempt work generally satisfies the primary duty requirement.

Executive - An executive-level employee is one:

- whose primary duty consists of the management of the enterprise in which the employee is employed or of a customarily recognized department or subdivision thereof;
- who customarily and regularly directs the work of two or more other employees; and
- who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring, firing, advancement, promotion, or any other change of status of other employees will be given particular weight.
- Examples: Vice President, Dean of an Academic College

Administrative - An administrative employee is one:

- whose primary duty is the performance of work directly related to the management or business operations of the University; and
- whose primary duty includes the exercise of discretion and independent judgment with respect to matters of significance; and
- that meets the additional criteria for this exemption.
- Examples: Finance, Accounting, Director of Communications

Professional - A professional employee is one:

- whose degree is recognized as a profession (not a general degree requirement);
- whose primary duty is the performance of work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction; or
- whose primary duty is the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor.
- Examples: Engineer, Lawyer, Doctor

Computer Professional - A computer professional is one:

- whose primary duty consists of the application of consulting with users, to determine hardware, software, or system functional specifications;
- the design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;
- the design, documentation, testing, creation or modification of computer programs related to machine operating systems; or
- a combination of the aforementioned duties, the performance which requires the same level of skills.

Outside Sales - An outside sales employee is one:

- whose primary duty is making sales or obtaining orders for services; and
- who sells away from the employer's place of business.

Violations and Penalties for Breaching Wage and Labor Laws

Common FLSA Violations - Some of the common FLSA violations include the following:

- misclassification of employees as exempt;
- improper payment for break time;
- improper payment/no payment for on-call time, training time, and travel time;
- inappropriately providing compensatory time off;
- failure to pay for unauthorized hours worked or all recorded hours; and
- inaccurate records.

Failure to Pay Minimum Wage or Overtime - Penalties for failing to pay minimum wages or overtime include the following:

- back pay;
- equal amount of liquidated damages;
- fine of \$1,000 per violation; and
- attorney's fees and court costs.

Wrongly Classifying a Position as Exempt - Penalties for wrongly classifying a position as exempt include the following:

- fines up to \$1,000 per violation;
- criminal penalties including up to \$10,000 in fines; and
- back pay, liquidated damages, attorney's fees.

Recordkeeping

The FLSA mandates employers keep certain records for all employees for **three years**. Some of those records include wages, hours worked, regular hourly pay rate for any week when overtime is worked, total overtime pay for the workweek, deductions or additions to wages, total wages paid each pay period, and pay period covered.

Overtime Rules and Pay

Overtime is legally defined as work which exceeds 40 hours in a workweek, which at Marquette University is Sunday thru Saturday. All time worked over 40 hours must be paid at one and one-half (1.5) times the regular rate of pay. The University's standard full-time workweek is 37.5 hours, hours worked over 37.5 (but less than 40) are to be paid at straight time.

Overtime is calculated based on time worked - vacation, floating holiday, University holidays, jury duty, and bereavement leave are not included in the calculation of overtime pay.

The University encourages supervisors to distribute overtime fairly and equitably within the classification of work to be done in the unit. Per Marquette University's University Policy and Procedures, 4-01: Compliance with the FLSA, employees cannot take compensatory time off in lieu of overtime pay.

Paying Non-Exempt Employees – Special Considerations

The FLSA requires employers pay non-exempt employees for all hours worked, with the following considerations:

Training

- Employers are required to pay an employee for attending training if non-attendance would adversely affect his/her employment.
- An employee's attendance at training is unpaid if all of the following criteria are met:
 - attendance is voluntary;
 - the program is outside of regular work hours;
 - the training is not directly related to the job; and
 - the employee does not perform any productive work during such attendance.

On-Call Time

Engaged to Wait: The employee is paid when time is considered as hours worked as follows:

- he/she is required to stay on company premises or close enough to company premises that he/she is not free to pursue his/her own interests;
- he/she is hired to do nothing or wait for something to happen.

Waiting to be Engaged: The employee is not paid when time is not considered as hours worked as follows:

- he/she can use waiting time for his/her own purposes.

An employee is entitled to receive pay if he/she responds to (work-related) calls.

Travel Time

- An employee is not paid for travel time between home and work at his/her regularly scheduled work site.
- An employee is paid when operating a vehicle for the employer (i.e., van driver).
- If an employee is expected to travel to a different destination to begin his/her work day, then the employee needs to be compensated for all hours from time travel begins until the final return.
- During the workday, any additional travel time should be paid. This would include going from job site to job site, going on sales calls, running errands for the employer and so on. However, if the employee leaves from another worksite to go home instead of returning to the original worksite, that time is not paid.
- If the employee is at a conference, all time should be compensated for except for any meal breaks where work is not being conducted. If the employee is working thru their meal break then it does need to be compensated.
- When taking a business trip or attending a conference lasting one day, at the request of the employer, an employee may count all travel time as time worked. Although the employer may deduct the time it would normally take the employee to commute to work.
- Wisconsin requires an employer to treat all out-of-town travel as work time if the travel is undertaken for business purposes. For example, if the employee has to take a flight to another state, the entire time the employee is on the flight is considered work hours regardless of the time of day or day of the week.
- Any work an employee is required to perform while traveling is considered worked hours and must be compensated for.

Rest and Meal Periods

No rest or meal periods are required under FLSA; however, since Marquette University provides meal periods, the FLSA stipulates the following:

- breaks of five to 20 minutes are to be counted as hours worked - time is paid;
- breaks of 30 minutes or more are not to be counted as hours worked - time is unpaid.

Determination of Hours Worked

Hours worked includes all time which an employer requires or permits employees to be on duty, at a prescribed workplace or on the employer's premises.

Contact

For additional information, please contact Jennifer Burns in Human Resources at (414) 288-7935 or visit our Compensation website at <http://www.marquette.edu/hr/CompensationProgramResources.shtml>.