

UPP 4-01: Compliance with the FLSA (Fair Labor Standards Act) University Policies & Procedures

Direct all Inquiries to: Associate Vice President for Human Resources 288-7305
hr@mu.edu

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Key Terms: overtime pay; minimum wage; work permits; exempt classification; non-exempt classification; comp (compensatory) time

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WHY DO WE HAVE THIS POLICY:

Congress enacted the Fair Labor Standards Act (FLSA) in 1938 to help ensure the general well being of workers. The Wage and Hour Division of the U.S. Department of Labor's Employment Standards Administration enforces the Law. The FLSA and its accompanying regulations, require almost all public and private employers, including Marquette University, to meet and comply with certain minimum employment standards.

WHAT IS THE POLICY:

It is the policy of Marquette University to comply fully with, and adhere to, the legally required standards of the Fair Labor Standards Act, as well as all other pertinent Federal and State of Wisconsin laws. These include, but are not limited to, the following:

I. Minimum Wage

The minimum wage for university employees is determined by Federal and State mandates, which are revised and updated periodically. In most cases, wages and salaries paid by Marquette to its employees significantly exceed the legal minimum wage. In no case can the university not meet the established minimum wage.

II. Work Permit for Minors

All minors under 18 years of age must have a Work Permit before starting work in any capacity at Marquette University. It is the hiring department's responsibility to make sure that a valid work permit has been obtained and produced for record keeping before the employee starts work.

III. Exempt Employee Classification

The Fair Labor Standards Act defines exemptions from the minimum wage and overtime provisions of the law for administrative, executive, and professional (including faculty) employees who meet and satisfy specific tests and requirements. The Department of Human Resources must make the determination of "exempt" status under the law for any and all positions within Marquette University, in adherence to the tests and measures specified by the FLSA.

IV. Non-Exempt Employee Classification

Employees (office, clerical and support staff) subject to the provisions of the FLSA pertaining to the payment of overtime after 40 hours of work per week, are classified as "non-exempt". The Department of Human Resources must make the determination of non-exempt status under the law for any and all positions within Marquette University, in adherence to the tests and measures specified by the FLSA.

V. Payment of Overtime Pay

For non-exempt employees, overtime pay of one and one-half times the employee's regular rate of pay is to be paid for all hours actually worked in excess of 40 hours per week. A workweek is a fixed and regularly recurring period of seven consecutive days. Each workweek stands alone, and hours for two or more weeks cannot be averaged out for the sake of figuring overtime pay. Since the university's standard full-time workweek is 37½ hours, hours worked over 37½ (but less than 40) are to be paid at straight time.

"Comp Time" (compensatory time) is not to be used in lieu of overtime pay. Flex-time may be used to equalize hours worked within a workweek, but accumulating or banking "comp time" instead of being paid overtime pay after 40 hours per week is not allowed.

Employees cannot waive their rights under the Act and must be paid accordingly. At Marquette, employees who work overtime in any given workweek must receive supervisory approval prior to doing so.

HOW DO I IMPLEMENT THIS POLICY:

The Fair Labor Standards Act sets specific rules and guidelines for employers to follow in the areas of overtime pay, job classification, and minimum wages. Supervisors, managers, chairs, and department heads are expected to comply with the guidelines outlined above. Questions about interpretation and implementation of this policy should be referred to the Department of Human Resources, specifically the associate vice president of Human Resources, or his/her

designate, or to the Payroll Department. Final authority on interpretation and application of the FLSA at Marquette University rests with the Department of Human Resources, in conjunction with the university's Office of the General Counsel.

ADDITIONAL RESOURCES AND FORMS:

Employee Handbook: <http://www.marquette.edu/hr/handbook/index.html>

Wisconsin's Fair Labor Standards: http://www.dwd.state.wi.us/er/labor_standards_bureau/default.htm