As supervisors, our role is to ensure that employment laws and UND policies are followed and consistently applied. This newsletter provides some helpful information to assist you in calculating total hours worked in a work week.

**What is the Fair Labor Standards Act?**
The Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay, record-keeping, and child labor standards affecting full-time and part-time workers in the private sector and in Federal, State, and local governments.

**Basic wage requirements**
Covered, nonexempt (www.flsa.com/coverage.html) 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.

The FLSA (Act) 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.

**Hours Worked**

What constitutes compensable time under the FLSA? The Act requires that employees must receive at least the minimum wage and may not be employed for more than 40 hours in a week without receiving at least one and one-half times their regular rates of pay for the overtime hours. The amount employees should receive cannot be determined without knowing the number of hours worked.
**Travel Time**

Determining whether time spent in travel is compensable time depends upon the kind of travel involved.

An employee who travels from home before the regular workday and returns to his/her home at the end of the workday is engaged in ordinary home to work travel, which is not work time.

An employee who regularly works at a fixed location in one city is given a special one day assignment in another city and returns home the same day. The time spent traveling to and returning from the other city is work time, except that the employer may deduct/not count that time the employee would normally spend commuting to the regular work site.

Time spent by an employee in travel as part of their principal activity, such as travel from job site to job site during the workday, is work time and must be counted as hours worked.

Travel that keeps an employee away from home overnight is travel away from home. Travel away from home is clearly work time when it cuts across the employee’s workday. The time is not only hours worked on regular working days during normal working hours but also during corresponding hours on nonworking days. As an enforcement policy the Department of Labor will not consider as work time that time spent in travel away from home outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile.

**Waiting Time and On Call Time**

**WAITING TIME**

Whether waiting time is hours worked under the Act depends upon the particular circumstances. Generally, the facts may show that the employee was engaged to wait (which is work time) or the facts may show that the employee was waiting to be engaged (which is not work time). For example, a secretary who reads a book while waiting for copies to be made or a fireman who plays checkers while waiting for an alarm is working during such periods of inactivity. These employees have been “engaged to wait.” An employee required to remain on the employer’s site during inclement weather so they are available for their schedules work shift is considered “waiting to be engaged” and not considered work time.

**ON CALL TIME**

An employee who is required to remain on call on the employer’s premises is working while “on call.” An employee who is required to remain on call at home, or who is allowed to leave a message where he/she can be reached, is not working (in most cases) while on call. Additional constraints on the employee’s freedom could require this time to be compensated.

**Rest and Meal Periods**

Rest periods of short duration, 15 minutes or less, are common (and promote the efficiency of the employee) and are paid for as working time. These short periods must be counted as hours worked. Unauthorized extensions of authorized work breaks need not be counted as hours worked when the employer has expressly and unambiguously communicated to the employee that the authorized break may only last for a specific length of time, that any extension of the break is contrary to the employer’s rules, and any extension of the break will be punished. Bona fide meal periods (typically 30 minutes or more) generally need not be compensated as work time. The employee must be completely relieved from duty for the purpose of eating regular meals. The employee is not relieved if he/she is required to perform any duties, whether active or inactive, while eating.
New Technology and the Fair Labor Standards Act

Modern technologies have made it easy and convenient for workers to field work-related phones calls and emails when away from the office.

Working outside of a non-exempt employee’s scheduled work time is generally known as working “off-the-clock.” Employers' failure to pay for off-the-clock work is one of the most common violations of wage and hour laws.

Examples of common off-the-clock work are:

◊ Email or text communications outside of scheduled work hours.
◊ Work performed remotely on computers outside of scheduled work hours.
◊ Time spent checking emails and voice messages as required by the employer.
◊ Required online training outside of scheduled work hours.

It is not unlawful for non-exempt employees to perform these activities. What IS unlawful is the employer’s failure to compensate employees for this work time in accordance with the wage and hour laws.

At a minimum, employers should take the following actions:

◊ Implement an “off-the-clock” policy which clearly outlines time-recording procedures for all time worked.
◊ Be selective in who is provided electronic devices and have them sign and acknowledge time-reporting requirements.
◊ Refrain from requiring non-exempt employees to take and return calls, emails and texts while off the clock.

Technology is here to stay and has many benefits. By implementing some safeguards, benefits can be realized while respecting wage and hour laws.

UND Compensatory Time Off

As a public employer, UND is allowed to offer paid time off at the rate of time and a half hours (compensatory or comp time) in lieu of overtime wages for hours worked in excess of 40 hours in the work week.

UND requires employees receive approval from their supervisors prior to working overtime.

It is the department’s decision whether to offer comp time. If compensatory time off is offered by the department, it is the employee’s decision whether they receive comp time or overtime wages.

As a supervisor, if you approved a non-exempt employee to work more than 40 hours in the work week, comp time or overtime hours must be tracked in UND’s payroll system using the appropriate associated earnings code for the type of compensation.

Codes associated with overtime and compensatory time off include:

♦ H03—Overtime wage
♦ H53—Compensatory time earned
♦ H23—Compensatory time taken Salary
♦ H33—Compensatory time taken Hourly
♦ H43—Compensatory time taken Contract

For UND’s full Compensatory Time Office policy go to: http://und.edu/finance-operations/_files/docs/3-13-compensatory-time.pdf

If you have questions, please feel free to contact UND.humanresources@und.edu or 701-777-4361