

KDLA Trustee Tip July 2016 Can Public Libraries Offer Compensatory Time to Employees?

Recent changes to the U.S. Department of Labor's Fair Labor Standards Act overtime regulations have many administrators scrambling to manage schedules and salaries to avoid payroll increases related to overtime. Public libraries have the option of offering compensatory time -- or comp time -- to employees in lieu of overtime, so long as certain conditions apply.

Why Libraries Can Offer Comp Time

Changes to the FLSA "Final Rule" on overtime restrict private employers' use of comp time in lieu of overtime compensation. Public libraries, however, are considered a public agency by the FLSA. State and some other governmental entities are afforded the ability to use comp time for employees who have logged more than 40 hours per week [according to the new "Final Rule."](#)

Who Is Eligible for Comp Time

In the past, it has been difficult for some public libraries to distinguish between "exempt" and "non-exempt" employees for the purposes of comp time. While hourly workers were often granted overtime, "salaried employees" and/or "managers" either earned comp time or were considered to be exempt from earning overtime.

Whether employees are paid a salary or are paid by the hour is less important than the duties he or she performs and the new payment threshold of \$913 per week. According to the [Overtime Final Rule and State and Local Governments](#) publication offered by the DOL, "generally, all **hourly** workers... are entitled to overtime pay **or comp time**... if they work more than 40 hours." By the same token, "**salaried** workers who do not primarily perform executive, administrative or professional duties" are also entitled **to overtime or comp time** when they work more than 40 hours."

Comp Time Versus Overtime

Most libraries will have employees who rarely if ever work more than 40 hours in a week, and administrative employees who may work beyond that threshold on a semi-recurring basis. It may, then, be easier to pay some positions overtime while allowing others to earn comp time. Local policy can dictate which positions are paid overtime and which are eligible for comp time. Libraries that plan to offer comp time instead of overtime should inform employees who are eligible for comp time before the time is earned.

The Time-and-a-Half Caveat

Public libraries have the option of offering comp time rather than overtime to employees, but any time worked beyond the 40 hour per week threshold must be compensated at time and a half, even if the compensation comes in the form of comp time. Therefore, an employee who earns comp time for 10 hours worked past 40 hours would earn 15 hours of comp time. When earned comp time is taken, employees are compensated at their regular rate of pay.

For more information about comp time, view an [archived FLSA webinar](#) or check [KDLA's Continuing Education offerings](#) for upcoming and archived events.

This Trustee Tip is not intended as legal advice. If you feel you need legal advice, please consult an attorney.