

**The Basics You Need to Know to Avoid the Pitfalls!**

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**Fair Labor Standards Act**

- Fair Labor Standards Act (FLSA) is the federal law that regulates hours and wages
- State law can have additional regulations beyond the federal law

**Pitfall to Avoid: Applying either federal or state law rather than the one that provides the greatest benefit to the employee**

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**Exempt vs Non-Exempt**

- Exempt Employees
  - Employees that are "exempt" do not receive overtime pay
  - Must meet the qualifications
    - Earnings Test
      - Minimum of \$455.00 weekly
    - Salary Basis Test
      - Predetermined salary which does not vary based on quantity and paid weekly or less frequent
    - Primary Duty Test
      - Main job duties fall within law's definition of Executive, Administrative or Professional work (generally, the employee would hold a degree, supervise, and make independent judgment calls)

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### Exempt vs Non-Exempt

- **Non-Exempt Employees**
    - Includes all employees that do not meet the requirements of exemption
    - Must be paid one and one-half times the regular rate of pay for each hour worked over 40 hours
      - Cannot volunteer their time in their position or a similar position
- Examples of "ok" and "not ok" volunteering
- Cannot take work home or work "off the clock"
  - Takes "leave time" in hourly increments

**Pitfall to Avoid: Classifying someone as exempt incorrectly to avoid overtime payment. Common and costly mistake!**

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### Meals and Breaks

- **Lunch**
  - Kentucky law requires employees receive a "reasonable period" for lunch ( 30 minutes )
  - Close to the middle of the employee's shift
  - Should be taken away from work area so not perceived as working
- **Breaks**
  - Kentucky law requires employer to provide a break/rest period of at least 10 minutes every 4 hours
  - Employee is paid during the break time

**Pitfall to Avoid: Allowing employees to work through lunch or count time at beginning or end of shift as lunch time**

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### Recording Time

- **Employees should accurately record time**
  - Timesheets should list the specific time of arrival, departure and breaks
    - Will not always be 8:00-12:00, lunch 12:00-1:00, 1:00-5:00 for every employee
    - Flextime should be reflected accurately on the timesheet and not as if they worked when they did not
      - Example: If the employee worked 6 hours on one day and flexed the other 2 hours, the time sheet should reflect the 6 hour day and the additional 2 hours on the day(s) that was worked.
- **Employers should keep a "master schedule" that includes the identified lunch/breaks for at least 3 years**

**Pitfall to Avoid: Generic or pre-populated timesheets being used or supervisors not ensuring that accurate start/end and break times are recorded. Everyone having 8:00-5:00 timesheets is a big red flag.**

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### Flex Time

- Flex time pertains only to the regular working hours – not overtime
  - Flex time allows employees to adapt the regular schedule for working their assigned hours for a temporary period of time
  - Should be pre-approved by a supervisor
  - Be consistent in how flex time is applied (allowing or not allowing)
  - Hours should be "flexed" within the same work week (7 day work week)
- Compensatory time (Comp time) pertains only to overtime hours in public sector NOT private sector
  - Comp time allows an hour and a half of time off for each hour of overtime worked
  - Check with District policies and Board Attorney prior to use, be consistent in use

**Pitfall to Avoid: Inconsistent Flex time application by supervisors or hours being made up outside of the same work week which could result in overtime pay**

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### Helpful References

- *An Employer's Guide to Kentucky Wage and Hour Issues* by Frost Brown Todd, LLC (Kentucky Chamber Publisher)
- [www.dol.com](http://www.dol.com)
- [www.labor.ky.gov](http://www.labor.ky.gov)

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### Questions???

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