



MMS Position Paper: Federal Wage and Hour Laws

MMS position papers are a compilation of our staff's research, education, training classes and seminars attended, 20 years field experience and interpretation of current laws as we understand them. The information contained in this paper is not legal advice and is intended to be used as general information to help your organization formulate your organization's guidelines. It is understood that your organization is legally responsible for all policies and procedures, and their legal basis.

Application: The question regularly arises "Are churches required to pay over-time?" or "Can we make all employees salaried?"

Federal wage and hour guidelines govern and enforce wage and hour laws. While some may argue that in order to be governed by the federal wage and hour laws you must be "involved in interstate commerce," we contend that every church is bound by these laws because every church has at some point made a long distance phone call, made a purchase over the internet, or traveled across state lines to attend a conference.

Federal Wage and hour regulations

We recommend that churches review all payroll and personnel procedures to ensure compliance with Federal Wage and hour regulations as listed below:

Employee classifications:

1) Exempt (from overtime)

To be classified as "exempt" from overtime, you must be a supervisor of at least 2.0 FTEs (full time equivalents), at least 60% of your work must be supervisory in nature and you must be a policy maker. However, there are some categories of employees that are automatically classified as exempt, such as pastors, salespeople, artists, and computer programmers.

Overtime: Employees are exempt and generally do not receive overtime pay unless employer options to pay overtime.

Compensatory time: Comp-time for exempt staff can be administered at the discretion of management. There are no regulations governing the schedules of exempt employees. However, documentation is always a good idea so that the employee and the Church can be prepared for any questions that may arise in regard to this issue.

2) **Non-Exempt** (from overtime)

Employees are automatically classified as non-exempts unless they meet the above criteria.

Overtime: Regulations require that non-exempt employees be paid 1.5 times their regular hourly rate for any hours worked over 40 in the standard work week. The overtime only applies to actual hours worked. If a sick day, holiday or vacation day is taken in the week, then all hours worked under 40 will still be paid on a straight time basis. For example, an employee is scheduled to work 8 hours per day, Monday through Friday. A paid holiday falls on Monday, he works 10 hours Tuesday, and 8 hours Wednesday, Thursday, and Friday. Although the employee worked an additional 2 hours on Tuesday, the total hours worked during the week is only 34. He would receive 8 hours holiday pay (if applicable), and 34 hours of regular pay.

Compensatory time: Comp-time for non-exempt staff is legal only if it is taken within the same work week. For example, a person can work 12 hours one day and 4 the next as long as it is in the same work week. For the situation discussed where a custodian works Sunday and is allowed “comp-time” the previous Friday, this situation is currently not legal. However, if the work week was documented with a Note to File as Friday 12:00 a.m. to Thursday 11:59 p.m., then that practice would be acceptable.

*** All other forms of bonuses, extra time off or any other arrangements or plans, documented or undocumented are illegal for non-exempt employees.**

We also recommend the following in regard to Federal Wage and hour regulations:

- Document the regulations in your human resource policies in general, and specifically reflect the current wage and hour regulations regarding exempt and non-exempt personnel.

- Train the staff on the implications of conforming to the laws.
- Implement two levels of record keeping:
 - 1) Exempt semi-monthly exception time sheet: This is a very simple form that allows exempt personnel to record any exceptions they had in their work schedule on a semimonthly basis. It would include space to record sick time, vacations, funeral leave and holidays. It would also provide a place to accurately record additions and subtractions from comp-time. This adds accountability without oppressive controls.
 - 2) Non-exempt weekly time sheet: This simple form allows non-exempt staff members to accurately record their actual work hours for the week. It also allows them to write in vacation, sick, funeral leave and holidays for accurate payroll processing.

It is understood that the church is the family of God and we expect the best from people. However, everyone needs accountability in their life, and these methods represent a small burden and will assist the church in complying with federal law as well as building in a healthy level of accountability. It also has a tendency to significantly reduce the potential for support staff abuse, clarify actual staffing needs and reduce imaginations when it comes to employees feeling overworked or outsiders/congregation members judging work schedules.