

# Seven Lies Employees Tell You About Time & Pay

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# Seven Lies Employees Tell You About Time & Pay

Welcome! Before we get started ...

- Use the chat box on the left to ask questions
- If you are having audio trouble, please message us in the chat box, and we will do our best to assist you

# Learning Objectives

- The seven most common misconceptions employees have about time and pay
- Find out your legal obligations - and rights - surrounding these issues
- Balancing compliance with fairness

# Do You Know Your Rights?

## Question One

Are employees legally entitled to breaks?



# Do You Know Your Rights?

## Question Two

Do overtime-eligible employees earn overtime pay when they stay an hour late?



# Do You Know Your Rights?

## Question Three

Which of these non-work activities should be paid?

Travel Time



# “You have to give me breaks”



# Break Rules and Laws

- The federal Fair Labor Standards Act doesn't require you to give breaks
- FLSA requires you to pay for breaks that last less than 20 minutes
- Breaks that last longer than 25 minutes are unpaid **ONLY IF** employees are completely relieved of all duties and breaks are uninterrupted
- While not required, giving employees breaks helps them refresh and recharge
- Some states may have specific requirements, especially for minors



“You have to give me time off”



# Scenario One

- Company has 20 employees
- Employee seeking a week off to treat depression



Do you have to give the employee time off?

# Scenario Two

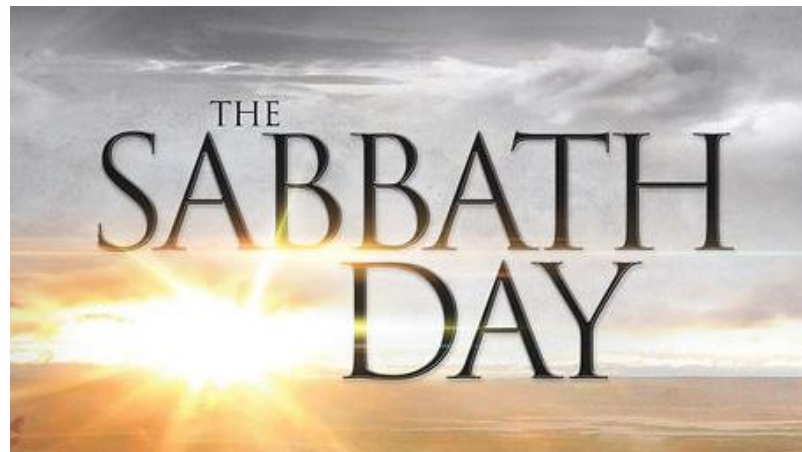
- Company has 100 employees
- Employee calls out for a sore throat



Do you have to give the employee time off?

# Scenario Three

- Company has 15 employees
- Employee no longer wants to be scheduled for Saturdays in observance of the Sabbath



Do you have to give the employee time off?

# Scenario Four

- Company has 5 employees
- Employee wants to leave early to vote



Do you have to give the employee time off?

# Scenario Answers

- Scenario One: B - Yes, the ADA most likely applies
- Scenario Two: C - No, no federal laws apply
- Scenario Three: A - Yes, most likely
- Scenario Four: B - No, no federal laws apply



# You DO Have to Give Time Off

- Typically only for medical, religious or military-related leave
- FMLA and ADA apply to medical leave
  - FMLA applies to business with 50+ employees and covers “serious health conditions” of the employee or immediate family member
  - ADA applies to businesses with 15+ employees and requires employers to make reasonable accommodations for employees with disabilities (including major illnesses)
- FMLA also applies to adoption or caring for a new child, and certain military-related leave
- Title VII of the Civil Rights Act of 1964 applies to religious leave
  - Applies to businesses with 15+ employees, requires employers to make reasonable accommodations for sincerely held religious beliefs or practices

# You DON'T Have to Give Time Off

- The Federal FLSA does not require you to give time off for:
  - Holidays
  - Vacations
  - Sick Leave
  - Volunteering
  - Voting
  - Jury Duty
  - Family Obligations





# State and Local Laws

- State and local laws tend to afford employees more rights and time off
- Many states and municipalities have their own versions of the FMLA and ADA, which may apply to smaller employers or include more employee rights
- State and local laws may cover other common leave requests, such as childcare, blood donation, voting, serving as a witness, or even paid sick leave

# You SHOULD Give Time Off

- Consider employment best practices, not just laws
- Time off allows employees to rest and recuperate, which improves employee productivity and morale
- Can decrease turnover



“You can’t make me work on holidays”



# Working on Holidays

- Under federal law, private employers aren't required to give time off for holidays unless the employees request to celebrate a religious holiday or cultural event
- You also aren't required to pay a premium for working holidays
- Most common holidays in the U.S. are: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas

“You have to give me a raise”



# What You Owe

- No law requires you to pay more than the minimum wage
  - Federal minimum wage: \$7.25
  - Minimum wage for certain federal contractors: \$10.10
  - If your state and/or locality has a higher wage, you must pay that
- Raising the minimum wage has been the employment law trend of the last couple years, so be aware of your state and/or local laws
  - Minimum wage in some states and cities are as high as \$15 - Seattle, WA
- Raises are critical to engaging employees and retaining top talent

# Poll Question #1

With increased state/local regulation, do you feel confused or uncertain about your wage and/or PTO requirements as an employer?

# “You have to put me on salary”





# Salaried vs. Hourly

- You don't have to make any employees salaried
- “Salaried” and “hourly” only refers to how employees are paid
- Making employees salaried may be easier and cheaper, depending on the job
  - Jobs with fluctuating demand: hourly pay
  - Jobs with steady demand: salaried...but only if the employee qualifies for “exempt” status under federal law

# Exempt vs Nonexempt

- Nonexempt employees:
  - Must receive at least the minimum wage for all hours worked
  - Must receive overtime for any hours over 40 they work in a workweek
- Exempt employees:
  - May be paid a set salary, regardless of hours worked
  - Not entitled to overtime wages
- Exemption is determined by the FLSA, based upon salary and primary duties

“You have to pay me overtime  
when I work late”



# Poll Question #2

Do you currently have a handbook or written document that clearly outlines overtime and paid time off (PTO) policies?

# When to Pay Overtime

- The federal FLSA requires overtime pay for any hours worked over 40 hours in a workweek
  - State laws may vary
- DOL considers a workweek to be any seven consecutive 24-hour periods, which can start on any day and at any time of day
- Employers can establish their own fixed workweeks, including different workweeks for different groups, to suit their needs

# Misclassification and Overtime

- Remember: nonexempt employees are entitled to overtime pay
- If a nonexempt employee is misclassified as exempt, you could owe back wages for unpaid overtime
- Look beyond job titles and examine primary duties before classifying employees as exempt



# “You have to pay me for that”



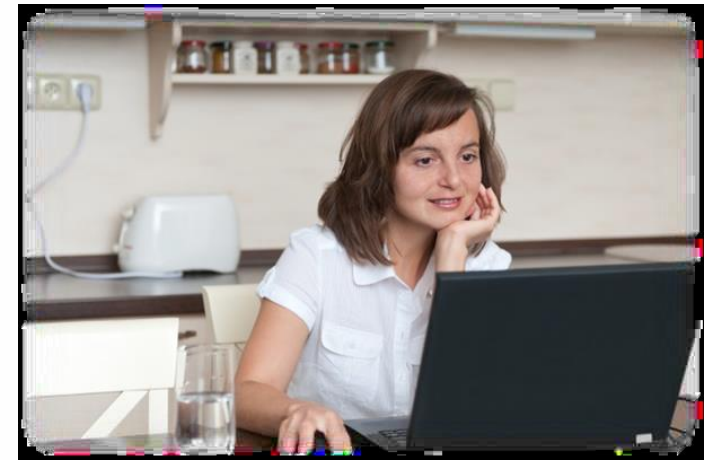
# Work-Related Activities

- FLSA requires employers to pay for certain work-related activities:
  - Changing into uniforms or other clothing, if integral to work
  - Commuting to work if employee picks up other workers or supplies
  - Travel between worksites
  - Business travel during regularly scheduled hours
  - Required training or meetings
  - Time spent waiting to work due to system/equipment failure
  - Pre- and post-work activities that are necessary to do the job, such as cleaning equipment



# Off-the-Clock Hours and Overtime

- Nonexempt employees must be paid for any time spent checking or responding to voicemails, emails or text messages, even if doing so is voluntarily or unauthorized
- You can ban this practice and discipline employees who work unauthorized overtime - but you must pay them overtime for all hours worked



# Poll Question #3

Does your company train your managers or supervisors on time & pay regulations?

# Final Notes

- Most employee “lies” are just misunderstandings
- Keep your eye on:
  - Paid sick leave
  - Minimum wage increases
  - Proposed changes to FLSA exemption criteria
- Use handbooks to communicate company policies to employees
- Track time and attendance using software that employees can access
- Strike a balance between what the law requires and what attracts and/or motivates employees

# ComplyRight HR Solutions

## Essential Workplace Policies



- More than 50 current and compliant policies
- All policies are attorney written and approved
- Includes acknowledgement to document employee notification

## FLSA Forms & Tools



- Contains 4 different sets of printed forms
- All forms are attorney written and approved
- CD ROM contains printed forms as well as others
  - Payroll status change form
  - Weekly timesheet
  - Overtime Request Form

## Power Training Products



- Downloadable - receive instantly
- Available with or without audio
- Customizable PPT presentation
- Speaker's Notes

# Questions

