Managing Employee Time & Pay: Seven Lies Employees Tell You - And the Truths You Need to Protect Your Rights

Presented by Alison Green, author of Ask a Manager blog



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About Alison

- Author of Ask a Manager
- Weekly columnist for U.S. News & World Report
- Author of Managing to Change the World: The Nonprofit Manager's Guide to Getting Results
- Former Chief of Staff for a successful nonprofit organization



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



"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 20 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



"You have to give me time off."





How Did You Do?

- 1. B: Yes, the ADA applies here
- 2. C: No, no federal laws apply
- 3. A: Yes, you must give the employee time off
- 4. 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 businesses with 50+ employees and covers "serious health conditions"
 - 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 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 laws tend to afford employees more rights and time off
- Many states have their own versions of the FMLA and ADA, which may apply to smaller employers or include more employee rights
- 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





"You can't make me work on holidays."



Working on Holidays

- You aren't required to give time off for holidays unless the employees requests to celebrate a religious holiday or cultural event
- You also aren't required to pay premium for working holidays
- Most common holidays in the US: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving 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 federal contractors: \$10.10
 - If your area has a higher wage, you must pay that
- Raising the minimum wage is the employment law trend of 2015, so be aware of your local laws
 - Minimum wage in New York State, Los Angeles and Seattle: \$15
- Raises are critical to engaging employees and retaining top talent



"You have to put me on salary."





Salaried vs Hourly

- You don't have to make employees salaried
- "Salaried" and "hourly" only refer 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



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 week
- Exempt employees:
 - Almost always paid a set salary, regardless of hours worked
 - Not entitled to overtime pay
- Exemption is determined by the FLSA, based upon salary and primary duties



"You have to pay me overtime when I work late."





When to Pay Overtime

- The federal FLSA requires overtime pay for any hours worked over 40 per workweek
 - State laws may vary
- DOL considers a workweek any seven consecutive 24-hour periods, which can start on any day and at any time of day
- Employers can define their own workweeks, including different workweeks for different employees, 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



New Overtime Rules?

- The DOL recently proposed changes to exemption regulations
- If adopted, the salary requirement for exemption would jump from \$455/week (\$23,660/year) to \$970/week (\$50,440/year)
- This number will be tied to 40th percentile of weekly earnings and may increase year-over-year
- Changes could affect nearly 11 million workers



"You have to pay me for that."



Work-Related Activities

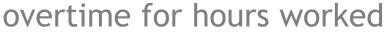
- FLSA requires employers to pay for certain work-related activities:
 - Changing into uniforms or other clothing, if integral to work
 - Commuting to work if employee picks up other workers or supplies
 - Travel between worksites
 - Business travel
 - Required training or meetings
 - Time spent waiting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



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 voluntary or unauthorized

 You can ban this practice or discipline employees who work unauthorized overtime - but you must pay them





Final Notes



Final Notes

- Most employee "lies" are just misunderstandings
- Keep your eye on:
 - 1. Paid sick leave
 - 2. Minimum wage increases
 - 3. Proposed changes to FLSA exemption criteria
- Use handbooks to communicate company policies and labor laws to employees
- Track time and attendance using software that employees can access
- Strike a balance between what the law requires and what employees want



Thank you!

