

Everybody Asks Raymond

About HEO Overtime and Compensatory Time



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Q. Are employees in the Higher Education Officer series entitled to overtime pay?

- A. Some employees in the Higher Education Officer (HEO) series are entitled to overtime pay at the rate of time and one-half; others are not. Eligibility for overtime pay, which arises from the Fair Labor Standards Act (FLSA), depends on an employee's specific job duties. Generally speaking, employees in the titles Assistant to HEO and Higher Education Assistant will be eligible for overtime pay, while employees in the titles Higher Education Associate and Higher Education Officer will not be eligible, but this is a general rule only and there are exceptions. Each job template in CUNYfirst designates whether the position is exempt or non-exempt from overtime under the FLSA.

Q. What is the FLSA requirement regarding overtime?

- A. The FLSA requires that non-exempt employees be paid at the rate of time and one-half for hours actually worked beyond 40 hours in the employees' established work week.

Q. Are employees in the HEO series entitled to compensatory time for hours worked beyond their 35-hour work week?

- A. Employees in the HEO series **who are represented by the PSC** are entitled to compensatory time for hours worked beyond the 35-hour work week under the terms of the "HEO Compensatory Time Agreement." Such additional time must be authorized in advance in writing by a supervisor designated by the College President.

Q. What happens if a person in the HEO series is eligible for overtime pay after 40 hours because he/she is non-exempt under the FLSA and is also eligible for compensatory time because he/she is represented by the PSC?

- A. In such a case, the employee would receive compensatory time for the hours assigned and approved between the contractual 35 hours and 40 hours and would receive overtime pay at time and one-half for hours actually worked over 40 hours in the work week.

Q. What happens if a person in the HEO series is eligible for compensatory time under the HEO Compensatory Time Agreement, but is exempt under the FLSA and is therefore not eligible for overtime pay?

- A. In such a case, the employee would receive compensatory time for all hours assigned and approved beyond the contractual 35-hour work week.

Q. What happens if a person in the HEO series is eligible for overtime pay under the FLSA, but is not represented by the PSC (i.e., serves in an excluded title/function) and is therefore not eligible for compensatory time?

- A. In such a case, the employee receives no additional pay and no compensatory time for the hours between 35 and 40 hours, but would receive overtime pay (at the rate of time and one-half) for hours actually worked beyond 40 hours in the work week.

Q. Is there a difference between how hours are computed for FLSA purposes and for HEO Compensatory Time purposes?

- A. Yes. For non-exempt employees, eligibility for overtime pay under FLSA occurs after the employee **actually worked** 40 hours in the work week. Holidays, annual leave, sick leave, and other instances in which an employee is paid, although not actually working, are not credited toward the 40 hours of work required before the overtime provisions of the FLSA become applicable. In contrast, under the HEO Compensatory Time Agreement, employees in the HEO series who are represented by the PSC become eligible for compensatory time for work performed beyond the 35 hours assigned, including holidays, annual leave, sick leave, etc.