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## Question of the Week

JUNE 07, 2023

### Question

Can we use comp time with our employees?

### ANSWER

It depends. For *nonexempt* employees of a private employer, no. The Fair Labor Standards Act (FLSA) doesn't permit private employers to offer compensatory time ("comp time") in lieu of overtime pay.

You could offer time off to your *exempt* employees as a reward for working more than their typical work week, which is considered a form of "flex time," but there are downsides to doing this. First, your exempt employees may grow accustomed to being able to take time off when they work extra hours, and this may not be a desirable or sustainable practice for your organization. Second, tracking the hours of your exempt employees so you can reward them may be extra work for you and them. Third, formalizing a flex time system for exempt employees could create confusion about what they're owed because it could create a perception that they're compensated on an hourly basis.

Instead of creating a formal flex time system for exempt employees, it may be simpler to find other ways to reward them for working extra hours when needed.

*This Q&A does not constitute legal advice and does not address state or local law.*