

# URA NEWS

UNION OF RUTGERS ADMINISTRATORS-AMERICAN FEDERATION OF TEACHERS, LOCAL 1766

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## Top Ten Questions About Overtime for URA

### 1) Am I entitled to overtime compensation?

A majority of URA bargaining unit members are eligible for overtime compensation. This right was established by the *Fair Labor Standards Act of 1938*. The URA-AFT Agreement and University Policy 60.3.14 spell out how overtime is accrued and compensated.

Most Rutgers employees who are legally eligible for overtime pay are classified as "NE," and are paid on the basis of a 37.5 hour workweek. There are also overtime-eligible members who work 35-hour or 40-hour workweeks.

NE employees are entitled to time-and-a-half overtime compensation after working 37.5 hours in a week. 35-hour employees are entitled to one hour of compensation up until 37.5, and one-and-a-half hours beyond that. Forty-hour employees are entitled to overtime at time-and-a-half once the workweek exceeds forty hours.

If you do not know your NE/NL status, you can check the "Std Week" Field of your "Year End Report" generated by the ARS system (<https://payrolluhr.rutgers.edu/ars/>).

### 2) Can I get paid for working overtime?

It is up to the discretion of your department whether your compensation is paid in money or in "comp time." However, the rate is one-and-a-half times the amount of overtime, whether in money or time.

### 3) Do I have to take comp time in the same pay period that I earn it?

No. That is a common misunderstanding, since the University Policy on overtime pay does suggest overtime pay be made in the same pay period as the overtime was accrued:

Where the compensation is to be in cash, payment should be made in the pay period in which the overtime is worked, if possible. If that is not possible, then payment must be made in the following pay period.

(University Policy 60.3.14)

Although some supervisors claim this is their practice, very few really want to implement it, because overtime work so often is accumulated during a busy season. Concentrating comp time in that busy season only compounds the problem.

### 4) When can I take my comp time?

You should request use of comp time and work out the schedule with your supervisor. A supervisor may deny a particular request (see below). You can then make a request for another date.

Where compensation for overtime hours will be in time off, such accrued compensatory time may be taken by the employee provided the time off is scheduled in advance and the time selected does not unduly disrupt departmental operations. (University Policy 60.3.14)

### 5) Do I have to "use or lose" my comp time, like my AL days?

No, you do not lose the right to overtime compensation. In certain situations, your department may even be required to convert comp time to payment.

... departments shall keep in mind future ramifications of deciding to compensate for overtime hours in time off rather than in cash, since employees are entitled to a cash payment upon leaving employment, upon transfer to a different department, or prior to the expiration of a grant. (University Policy 60.3.14)

### 6) Can my boss deny me overtime compensation?

No, your overtime compensation is protected under Federal and State law, University Policy and your union contract. The most specific statement is found in management's own policy:

Except in narrowly defined circumstances, all time worked for the university by employees in fixed work-week titles, including work in two or more departments and at special events as well as the employee's own de-

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## Overtime Grievance Upheld



URA Secretary Theresa O'Neill filed a grievance on uncompensated overtime in January. Her department insisted they owed her nothing. In March, a third step grievance decision acknowledged

that she was owed nearly 200 hours overtime, at time-and-a-half. Here is her story.

**When did you realize that you were eligible for overtime?** I'm not sure exactly when, but I know I didn't have the nerve to walk up to my boss and say so. The department always talked about how they were short of funds. No one else had ever tried to claim overtime. The whole idea seemed preposterous.

**How did you come to be working so much overtime?** I work as a career

counselor. A policy was implemented that all students' resumes had to be reviewed and departmentally approved before they could be submitted through our online job postings system. A student's resume could be rejected for editing as many as five or six times before it was deemed acceptable. Often I would find myself approving resumes at 10:00 p.m. or on the weekend.

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partment, must be considered in determining whether overtime compensation is due. *Even unauthorized overtime must be compensated.* [Emphasis added]. (University Policy 60.3.14)

On the other hand, if your supervisor specifically tells you that no overtime is authorized and you should stop working, you should comply. Examples include situations where members are paid on grants or contracts which spell out the number of hours of work, and in emergency situations like snow removal, where a certain amount of overtime is budgeted.

**7) If I take comp time or other time off then work overtime in the same week, am I also entitled to time and a half for the overtime?**

Yes. Again, University Policy addresses this issue.

With respect to fixed workweek staff, "hours worked" are computed by adding all hours actually worked during the workweek plus any paid time off, such as vacation and sick time. (University Policy 60.3.14)

In other words, if you take Monday as a comp time, sick or vacation day, then you work late again on Friday, and you work more than your regular work week (35, 37.5 or 40, according to your job title), your late hours on Friday are overtime.

**8) If I "Flex" my time in the week I do overtime, is it still time-and-a-half?**

If you work late on Monday, and leave early on Friday, and do not work over your standard work week, you are not working overtime. Flexing time during the same week

may be a convenient option for you and your department. However, your supervisor should not direct you to leave early or come in late, outside of your regular hours in order to avoid comp time. Like the scheduling of comp time, this decision should be mutually acceptable to the employee and supervisor.

**9) If I worked on a holiday, how much should I be paid? How much time off should I get?**

If you work on a University holiday – or if you work in an office which works on a County holiday schedule and work on a County holiday, you will be *paid* for the day. **In addition**, you must receive 1.5 days in time or payment. It is your department's discretion whether to compensate you with time or money.

If you have questions about the County holiday agreement, contact the URA-AFT Executive Board member for Off-Campus and Extension members, Rhonda Smalls ([rsmalls@ura-aft.org](mailto:rsmalls@ura-aft.org)).

**10) If I am considered "overtime ineligible" or "NL" employee, what protection do I have?**

**Article 7** of the Agreement provides for compensatory time at straight time for any NL employee who is required to return to work after leaving for the day.

**Article 24** of the Agreement provides a process for employees to challenge improper classification as NL employees.

**Article 27** of the URA agreement provides a process for employees who are not eligible for over time to meet with the supervisor to request compensatory time.

NL employees who are interested in improving protection for ineligible members of the bargaining unit should consider joining the Contract Development Committee to build URA bargaining power for our next contract. Contact New Brunswick Vice President and Contract Development Chair Kathryn Neal at ([kneal@ura-aft.org](mailto:kneal@ura-aft.org)).

## Overtime Grievance Upheld

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**What led you to take action?** In December of 2009, I received a paycheck with over 70 hours of overtime pay. I thought I was finally being acknowledged. But in January, I was at home sick, when I got a call saying it was all a mistake; they wanted the money back. My gut kicked in and I thought "Oh, really?" In the end, it wasn't about the money. They were saying "Your work doesn't matter."

**If your department wasn't tracking your time, how did you show what you were owed?** I went back and checked the time stamps on my emails – including emails to my boss. At first, management insisted that I could only claim overtime worked in the previous year. But URA

executive director Bob Cousins explained that the law allows an employee to go back two years to claim unpaid overtime. And truly, I didn't try to claim every second. If I answered email from work at 5:30 p.m. and from home at 9:00 p.m., I didn't say I was working all those hours. I tracked the hours I actually worked on a spreadsheet.

**So how much OT was it?** We documented 176 hours of actual time worked, awarded at time-and-a-half. In practical terms, that's more than seven weeks. Management chose to give it all in comp time. It would really be easier for everyone if they would pay me, but that's their option.

**What are you doing with the time?** I haven't decided, but I need a vacation.



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