

Put a stop to unauthorized overtime: 4 strategies

As overtime lawsuits continue to surge, organizations often try to defend themselves by pointing to their policy that says employees should have received management approval for overtime.

But a written policy isn't enough, as employers are learning the hard way.

Federal judges are dealing harshly with employers who try to rely solely on the "no-OT-without-approval" defense. That's because the Fair Labor Standards Act (FLSA) requires management—not employees—to make sure employees don't work extra hours.

According to the U.S. Labor Department, "time spent doing work not requested by the employer, but still allowed, is generally hours worked."

Bottom line: HR and supervisors must become more proactive in preventing "off-the-clock" work. Here are four ways to prevent unauthorized OT:

1. Make sure all employees know they must obtain supervisor approval to work overtime—don't just stick that requirement in a policy book.
2. Develop checks to ensure employees aren't working off the clock. *Example:* Insist all hourly employees clock in and out.
3. Consider additional tracking measures, such as electronic entry cards, to back up reports of hours worked.
4. Institute progressive discipline for overtime violators. While you must pay for all hours worked (authorized or not), a couple days off without pay should stop a repeat offender.

Case in point: Two hourly HR workers at ConAgra Foods were required to clock in and out for hours worked. The women filed an FLSA overtime suit, claiming the time-clock records showed they were due many overtime hours. ConAgra argued that it relied on its "no-OT-without-permission" policy and its managers, who filled out employees' time sheets to approve overtime.

The court sided with the employees, saying the company should have compared time sheets with the time-clock records, and taken steps to stop overtime it didn't approve. (*Reyna, et al., v. ConAgra Foods*, MD GA, 2006)