Stop overtime abuse with 4 steps, smart policy

Do your employees understand exactly when they’re allowed to work overtime, what counts as overtime work (checking email at night?) and do they go through the proper channels to request OT work?

Lax overtime rules are wasting billions of dollars at U.S. organizations and triggering more Fair Labor Standards Act (FLSA) lawsuits than ever before.

Example 1: Just last month, a government audit found that the U.S. Postal Service spent more than $717 million on unauthorized overtime pay in the past two years. The reasons: Loose timecard controls and unclear rules from management. The report said some employees assumed their unapproved overtime was OK “because their supervisors never addressed it with them.”

Example 2: At a Texas call center, a group of hourly workers sued for unpaid overtime even though the company had a “no unauthorized overtime” policy. They claimed the rule was never enforced. Instead, they said supervisors pushed them to meet sales quotas no matter how many hours it took—and told them to report 40 hours.

The court let the case proceed as a class action, saying a “no overtime” policy is irrelevant if the company either encouraged employees to work unreported overtime or made it impossible to perform the job in 40 hours and turned a blind eye to the extra hours. (Jones v. Supermedia, No. 3:11-CV-1467, ND TX, 2012)

Advice: The first step is to make clear in a written policy that employees can only work overtime authorized in advance by a supervisor (see sample policy below).

But a “no unauthorized overtime” policy is just the start. Federal courts deal harshly with employers that rely solely on the “we’ve got a written policy” defense to overtime suits. That’s because, according to the U.S. Department of Labor, “time spent doing work not requested by the employer, but still allowed, is generally hours worked” and, thus, it must be paid.

4 ways to stop unauthorized OT

1. Communicate your policy. Constantly remind employees (and managers) that hourly workers must obtain supervisor approval to work overtime—don’t just stick that requirement in a policy handbook. Explain the consequences. Document those communications.
2. **Develop checks** to ensure employees aren’t working off the clock. *Example:* Insist all hourly employees clock in and out. Require managers to perform spot checks.

3. **Consider additional tracking measures**, such as electronic entry cards, to back up employee reports.

4. **Institute progressive discipline.** While you must pay for all hours worked (authorized or not), a couple of days off without pay should stop a repeat offender.

**Sample policy: Overtime**

“Overtime must be approved by your supervisor in advance and should be included on the time sheet in your total hours worked. (Company) retains sole discretion to determine when employees must work overtime. Working unauthorized overtime hours may lead to discipline under our progressive discipline policy, up to and including termination.”