

Can employees bank OT hours for extra leave?

Q. Sometimes, our employees work overtime and we note those hours in an overtime bank so they can take time off later. One of our employees claims this is illegal and that we have to pay him. Is that true? — C.K., Minnesota

A. It sounds as if you have created an informal comp time program. If you are a private employer (as opposed to a governmental agency), then it is not permissible to provide this “overtime bank” in lieu of paying overtime in workweeks when employees work more than 40 hours. Employees who are not exempt from the wage-and-hour laws must be paid time-and-a-half for any hours in excess of 40 hours worked in any workweek. You cannot provide an informal (or formal, for that matter) IOU voucher for excess hours worked.

On the other hand, if the employees are exempt—and are properly classified as exempt under the Fair Labor Standards Act—you can voluntarily provide them with compensatory time for hours they work in excess of 40 in a workweek as an additional bonus for working beyond normal expectations. You don’t have to provide any such bonus; exempt employees can work more than 40 hours without extra pay.