CHRISTIAN MANAGEMENT ASSOCIATION

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Compensatory Time Off

Some employers continue to adopt policies giving their employees compensatory time off (an hour off at some later date for every extra hour worked) instead of paying them overtime. This practice is illegal under federal law and most state laws because it prevents employees from collecting an overtime premium for working more than a set number of hours. This means that if you choose to give your employees time off instead of money for extra hours worked you expose yourself to legal challenges and potentially significant financial consequences if found to be in violation of the law.

So, what are the alternatives to simply paying the employee overtime? There are not many, but here are a few ideas:

1. You may be able to **rearrange an employee's schedule** during a workweek to ensure that the employee does not work overtime. Under federal law, an employee who works no more than 40 hours in a week has not worked overtime and is not entitled to overtime pay. So, for example, an employee who works four 10-hour days and then has three days off need not be paid overtime.

2. If your state has a daily overtime standard, this may not be possible unless the law explicitly allows you and your employees to agree on an **alternative workweek**. A daily overtime standard means that workers are entitled to overtime if they work more than a set number of hours in a day, even if they ultimately work fewer than 40 hours in a week. California and Colorado are among the states that have a daily overtime standard.

3. You can also **adjust an employee's hours** during a pay period so that the amount of the employee's paycheck remains constant. To make this work, the employee must take an hour-and-a-half off for every extra hour worked. For example, if an employee who usually earns $1,600 every two weeks (or $20 an hour) works an extra 10 hours during the first week of the pay period, the employee is entitled to $300 in overtime pay – 10 hours multiplied by one-and-a-half times the employee's hourly rate, or $30. If the employee took 15 hours off in the second week of the pay period, however, his or her paycheck would remain the same – the employee would receive $300 in overtime pay, but would be docked $300 (15 hours multiplied by $20 an hour) for the time not worked. While you'll have less of the employee's time, it will help keep costs down.

Want to learn more about the subject? Here are a few resources:

The Essential Guide to Federal Employment Laws, by Lisa Guerin and Amy DelPo (Nolo).
https://www.laborbooks.com/Item/laws

The Employment Law Handbook, http://www.employmentlawhandbook.com/federal-employment-and-labor-laws/

State Labor Laws, https://www.dol.gov/whd/state/state.htm

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