

# Four Compliance Issues to Overcome

Managing the compliance needs of a small business has never been harder. Explore four of the top issues facing businesses and how to stay on the right side of the law.



Simple and Powerful  
Time-Tracking Solutions



LNJ EMPLOYER  
SERVICES

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(Exempt vs. non-exempt, contractor, etc.)

## 1. Family Medical Leave, Paid Sick Leave, and Paid Time Off

Employees need to take time off for various reasons, such as medical emergencies, recovery from an illness, planned medical procedures, family support, or leisure. Several laws govern the management of employee leave, and they affect most employers.

### Family and Medical Leave

The Family and Medical Leave Act (FMLA) allows eligible employees to take up to 12 weeks of unpaid, job-protected leave for qualified reasons related to family and medical needs, while maintaining access to employer health insurance coverage. Tracking the time taken is essential in ensuring compliance with this law.

### Paid Sick Leave

No federal laws are currently in place requiring employers to provide paid sick leave. The Families First Coronavirus Act (FFCRA) mandated the provision of 80 hours of paid sick leave in relation to the COVID-19 pandemic, but this legislation has since expired.

However, [many states, cities, and counties have laws](#) requiring employers to offer paid sick leave.

### Paid Time Off

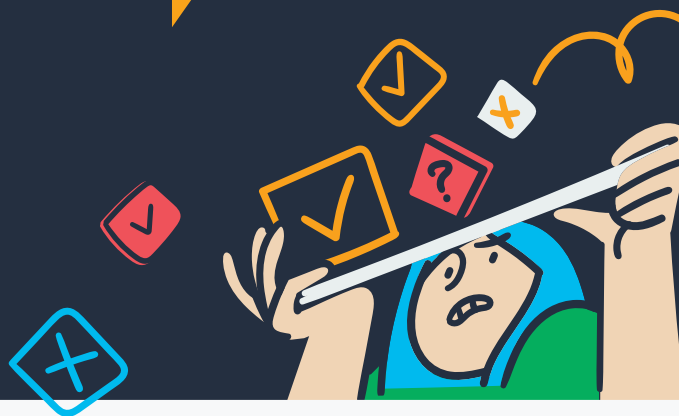
Paid time off (PTO) is a benefit that most employers offer. Accrual policies can vary, although it's most common to offer a specific number of hours based on the number of hours worked. This number may increase as the number of years of service with the organization goes up. *Tracking the hours accrued and used can create problems, particularly when employers use manual processes.*



Although no federal law mandates the provision of PTO, employers generally choose to offer it as a benefit to their employees. *The following states currently have laws in place regarding the payment of accrued vacation time:*

Alaska	Maryland	Oklahoma
Arizona	Massachusetts	Pennsylvania
California	Minnesota	Rhode Island (after one year of employment)
Colorado	Nebraska	Tennessee
Illinois	New Hampshire	West Virginia
Indiana	New York	Wyoming
Kentucky	North Carolina	Washington, D.C.
Louisiana	North Dakota	
Maine	Ohio	

*'Use it or lose it' policies are prohibited in California, Montana, and Nevada. In addition, some cities regulate PTO. Check with your state and local departments of labor to find out what laws apply in your area.*



## SOLUTION: Automated PTO and Leave Management

With automated PTO and leave management tools, it's easier than ever to manage accruals. Your organization will set up custom time-off categories, allowing for allocation, accrual, and tracking of time off. These categories can be set up for individual needs, including FMLA leave, paid sick leave, vacation or personal time, and any others.

Automated PTO and Leave Management streamlines PTO tracking and ensures employers can see the big picture before approving or declining time off. Automated time and attendance also provides historic data that can make audits easy, productive, and worry-free.

## 2. Tracking Meals and Breaks



While no federal law currently mandates the provision work breaks, many states have laws that apply to rest periods. Generally, the laws mandate one paid or unpaid break for a specific number of hours worked. Thousands of employers violate these laws every year.

In many cases, the employer assumes employees are okay with a more lax policy. However, when challenges arise, the employer will always be the one to be penalized if records aren't in order.

## By the Numbers:

In April 2019, a jury awarded a class of 5,000 California-based Walmart fulfillment center employees over

**\$6 million in damages for multiple violations**

including missed meal breaks which are required in California. The court found the company failed to pay for all hours worked, pay overtime, provide meal periods, provide rest breaks, pay final wages, and provide accurate itemized wage statements. [Read the Report](#)

*Don't let break or rest periods cause issues with compliance. Each of the items listed above can be solved with a fully automated time and attendance solution.* With this solution in place, you can feel confident that you have your bases covered when it comes to compliance with providing meal breaks and rest periods.

## 3. Managing Overtime

Wage and hour laws, particularly those that involve minimum wage, can cause a number of issues. Often, these problems create a domino effect, resulting in multiple instances of non-compliance.

For example, a company using paper timecards may have one manager who doesn't enforce the rules around recording hours worked. That manager gathers the cards at the end of the period and sees multiple missed punches. Since she's busy and the employees are swamped, she estimates shift times and submits the data for payroll processing.

## PROTECT YOURSELF WITH:

Time clock prompts for unpaid breaks

Manager alerts for missed break punches

Real-time manager oversight of mobile employees on break

Automated recordkeeping of shift punches including rest periods



*When inaccurate time is used to create employee paychecks, one hourly, non-exempt employee received pay for 38 hours when he actually worked 43 during the pay period.*



As a result, the check is five hours short and fails to include three hours of overtime earned. *At this point, the company has violated both minimum wage and overtime laws.* Plus, the payroll processor is probably dealing with an unhappy employee whose check is significantly less than it should be.

## Working off the Clock is Illegal

Employers cannot ask or require non-exempt employees to work “off the clock.” A Florida restaurant had to pay

**\$19,000** *in back wages and penalties*

when they failed to pay servers for their entire shift. During an investigation, it was determined that the restaurant failed to compensate employees for time worked prior to the arrival of the first customers. [Read the Report](#)

## Managing Overtime

The [Fair Labor Standards Act](#) has been around since 1938, and thousands of employers still fail to comply (either knowingly or unknowingly) with the overtime rules.

### When is overtime pay mandatory?

Employers are required to pay overtime when a non-exempt hourly worker works more than 40 hours in a defined work week. Under the FLSA, the overtime pay rate must be at least time and one-half the employee’s regular rate of pay. For employees over age 16, there is no limit on the number of hours worked in a workweek. Overtime pay is not required for work on holidays, weekends, or regular days of rest, unless the employee has exceeded the overtime hours limit in the workweek.

Automated time and attendance ensures that your employees are recording their hours, as well as their breaks and overtime. With automation in place and various options to clock in and out, automated time and attendance can help keep you clear of any future trouble regarding minimum wage issues.

### THE FOLLOWING FEATURES PROTECT YOU FROM VIOLATING MINIMUM WAGE LAWS:

Biometric time clocks with schedule enforcement

Configurable pay rates

Tip tracking

Meals/breaks prompts



Additional laws that may apply including those imposed by the state, union or industry.

### By the Numbers:

When a Las Vegas plastering company failed to pay overtime to 156 piece-rate employees, it had to pay:

**\$137,174** *in back wages.* [Read the Report](#)

And they're not the only ones impacted by OT laws. An Ohio-based home health agency faced a fine of:

**\$327,848** for multiple violations

including not paying overtime when travel time between clients pushed aides over a 40-hour workweek.

Track all employee time for every shift!  
It's the first line of defense against overtime violations.

#### Additionally:

1. Ensure all overtime-exempt employees meet [FLSA duties](#) test
2. Verify that [independent contractors](#) meet the IRS criteria
3. Know the overtime laws around piece-rate work and tips
4. Don't require off-the-clock work (it's illegal!)
5. Compensate correctly for "call-in" shifts or "on-call" work
6. Be aware of the laws mandating meals and breaks
7. Pay employees for training time, putting on uniforms and traveling between job sites throughout the day (traveling from home to the first job site or client is not generally compensable time)

#### Unplanned Overtime Can Be Costly

While we're on the subject of overtime, it's worth noting the severe impact of unplanned OT on a labor budget. *In a recent study performed by Deloitte that included more than 800 U.S. employers, the average was 31 hours of unplanned OT per week, per company.* Breaking it down by the numbers, this results in a yearly cost of more than \$40,000 (based on an average OT wage of \$25 and 31 hours of unplanned overtime).

Limiting OT reduces your company's risk of violating the law while saving its labor budget.

#### AUTOMATED TIME AND ATTENDANCE SOLUTIONS INCLUDE THE FOLLOWING TOOLS FOR OVERTIME COMPLIANCE:

Alerts for overtime hours thresholds

Meal/break early punch lockout

Overtime calculation by job code

Tip reporting

Flexible scripting for state or local overtime laws

Audit-ready recordkeeping and reporting

Mobile location management



# 4. Employee Classification (Exempt vs Non-Exempt, Contractor, etc.)

It's essential for employers to properly classify employees. Federal and state laws around variable pay schedules, overtime, and other aspects of compensation depend on the proper classification.

## What is an exempt employee?

*An exempt employee is one who is not required to be held to the overtime protections outlined in the Fair Labor Standards Act (FLSA).* To put it another way, employers don't have to pay overtime to exempt employees if they work more than 40 hours during a workweek. Generally speaking, the overtime pay rate is time-and-a-half their normal rate.

## What qualifies for exemption from overtime laws?

Sometimes referred to as the "white collar" exemption, specific employee categories are outlined by the [Department of Labor](#). Those who fall into these categories are exempt from overtime requirements, as long as they meet the wage tests and duties requirements. An exempt employee cannot just hold a title that qualifies under an approved category—they must perform the duties outlined as well.

## What is a non-exempt employee?

A non-exempt employee does not meet the duties and salaries requirements and tests outlined above, and they must receive overtime pay for any hours worked over 40 during a workweek. Although most hourly workers are non-exempt, failing to track hours worked can result in the violation of overtime laws.

## By the numbers:

A well-known misclassification issue occurred at MetLife. The claimants involved in the case previously worked as Claim Specialists and were paid hourly until 2013 and received OT pay for all hours worked beyond 40 in a workweek (*which was common*).

But during that year, the company reclassified the employees as exempt salaried employees without making changes to job duties.

*The plaintiffs claimed that they were continuing to work between 45 and 60 hours per week yet received no OT pay.*

The judge agreed, ruling against MetLife and issuing a

**\$50,000,000**  
judgment.

[Read the Report](#)

Classification impacts more than just laws that mandate overtime pay. It impacts an employee's eligibility for benefits, minimum wage protections, and workers' comp eligibility. Additionally, failing to pay OT can put employers at risk of facing federal and state penalties.





## The three main steps for complying with classification laws are:

1. *Follow the federal and state classification rules*
2. *Track all time worked by all employees regardless of classification*
3. *Maintain all time and payroll records*

Automating employee timekeeping makes it easier to follow the steps above and manage time and labor. Employees punch in and out with a clock or mobile app, and the software creates and saves virtual timecards to comply with recordkeeping requirements.

Additionally, automation in timekeeping eliminates the complex factors of manual time and data management. These include monitoring meals/breaks, managing tips, overseeing mobile employees, and padding timecards.

## Automated Time and Attendance for Compliance Confidence

Our time and attendance solution serves as a simple and effective way to comply with the challenges that come with employing others.

Ready to step up your compliance game and protect your company?

Give us a call.



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