

## Q&A with the Experts: Mastering Compliance in the Digital Age, a Deep Dive into FLSA and FMLA

Compliance with labor laws like the Fair Labor Standards Act (FLSA) and the Family and Medical Leave Act (FMLA) has become tricky in such a fast-paced world. Being able to keep up with ever-changing regulations is more critical than ever, especially since mistakes are not only costly but can tarnish the reputation of a school district. When it comes to setting up your district for streamlined compliance success, the greatest competitive advantage you can have is knowledge.

The following excerpts are highlights from a webinar session that featured a panel of industry experts (below) discussing the importance of identifying the most common compliance mistakes that put districts at risk and the tools needed to streamline compliance initiatives.



### Rob Tibbs, K-12 Industry Principal, UKG

Rob Tibbs provides subject-matter expertise to the company's growing K-12 customer base. Leveraging his strong background in education, he works with school districts across the U.S. to help them realize maximum value from their UKG solutions. He's a regular thought-leadership contributor to several publications and works with districts and administrations to implement best practices and enhance change management strategies.



**Whit Colvin**  
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## Q&A: Mastering Compliance in the Digital Age, a Deep Dive into FLSA and FMLA



The concept of annualizing pay for non-exempt employees is common in the K-12 space. Can you speak to what districts should consider when annualizing pay?



When annualizing pay, it's crucial to understand that the Fair Labor Standards Act (FLSA) was designed for a different era. While annualizing pay makes things easier, it's important to recognize that salary doesn't exempt employees from FLSA. Even salaried non-exempt employees are subject to wage and hour laws, and miscalculations can lead to overtime issues.

Salary does not equate to exemption from FLSA. Overtime regulations still apply, and it's crucial to accurately track hours worked. Even if non-exempt employees are paid a salary, the Department of Labor requires accurate time tracking for wage and hour compliance. A reliable time tracking system is the key to wage and hour compliance. Whether using timesheets, time clocks, or technology, a structured process is essential to account for every hour worked by non-exempt employees.



Moving on to FMLA, can you speak to best practices in determining eligibility, especially considering the unique scenarios in K-12, such as teachers' varied work hours?



FMLA eligibility is determined by and based on a 12-month work history and 1,250 hours worked. Timekeeping practices are crucial to making this decision. Teachers typically get the benefit of the doubt. The Department of Labor often assumes they meet the 1,250-hour requirement due to their additional off-the-clock responsibilities.



Some districts guarantee hours for roles like bus drivers to ensure fair compensation, even if the routes are short. How do these practices affect FMLA eligibility, and what are the best practices for ensuring compliance?



Guaranteeing hours for specific roles is a common and valid practice. It helps ensure fair compensation. However, for FMLA eligibility, accurate timekeeping remains crucial. The determination involves both a 12-month work history and 1,250 hours worked. Timekeeping practices need to demonstrate how many hours employees have actually worked to ensure compliance with FMLA eligibility requirements.

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Whit, you mentioned the term "pencil whipping" and emphasized the importance of accurate time records. Can you elaborate on what you mean by pencil whipping and why tracking actual time worked is crucial?



Pencil whipping refers to the practice of filling out time sheets inaccurately or at the last minute without proper consideration. In the education sector, there was a tendency to fill in time sheets monthly, leading to issues. Accuracy is crucial for compliance, monitoring, defending, and addressing concerns. The paper time sheet system often resulted in situations where entries were made retroactively, making it difficult to verify the accuracy of reported hours.

Whatever the timekeeping system used, it should be structured. Inconsistent practices like monthly time cycles or relying on paper time sheets led to problems. I recommend systems that require employees to record their time contemporaneously, making it a deliberate practice to start and end the workday. Electronic systems, like time clocks, reinforce this practice and allow real-time monitoring, ensuring accurate tracking of hours worked.

**“Automated systems, like time clocks or electronic tracking, enforce structured timekeeping. They eliminate the pitfalls of manual entries on paper time sheets, reducing the chances of errors or deliberate inaccuracies.”**

*Whit Colvin, Bishop Colvin*



You've highlighted the importance of structured timekeeping. Can you elaborate on the benefits of automated systems in ensuring accurate time records?



Automated systems, like time clocks or electronic tracking, enforce structured timekeeping. They eliminate the pitfalls of manual entries on paper time sheets, reducing the chances of errors or deliberate inaccuracies. These systems prompt employees to correct mistakes before starting a new workday. They also allow supervisors to monitor exceptions and ensure real-time visibility into time records, making it easier to manage time effectively.

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Melissa, Whit mentioned the impact of accurate time records on FLSA compliance. Could you further elaborate on how FLSA standards are affected by the absence of accurate time records?



The FLSA operates under the assumption that accurate time records are crucial for compliance. If an employer lacks accurate time records, the burden falls on them to prove employees did not work as much as claimed. Reliable timekeeping systems provide concrete evidence in case of disputes, making it easier to defend against claims of inaccurate reporting.

From a policy perspective, it's crucial to have clear language in the policy manual regarding overtime, comp time, and related matters. This ensures that employees and supervisors understand the rules and regulations. Regular training on these policies is also essential. It's vital to communicate the importance of accurate timekeeping and the potential consequences of non-compliance.

A bonus with a timekeeping system is the ability to automate the FMLA notice process for eligible employees. A good timekeeping system helps quickly determine FMLA eligibility and I love a system that utilizes the Federal model FMLA forms.

It's also essential to designate an employee who is responsible for FMLA issues that can coordinate between payroll and HR for FMLA discussions. A centralized, accessible system helps keep compliance in check.

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*Melissa McKie, Bishop Colvin*



As we wrap up, do you have any final thoughts or specific recommendations for school districts to enhance their time tracking and overtime management practices?



I would emphasize the importance of proactive management. Districts should regularly review policies, provide ongoing training, and ensure that there's someone overseeing timekeeping processes. Don't wait for issues to arise; be proactive in managing time-related matters.

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Whit, any final thoughts you would like to share to close us out?



Districts should view time tracking as an integral part of their overall management strategy. Invest in modern timekeeping systems that streamline processes and reduce errors. Regularly assess and update policies and ensure that communication about these policies is clear. This proactive approach not only enhances compliance but also contributes to the efficient and effective operation of school districts.

You need a good structure in place. You need a great management structure. You need a great time tracking system. It should interface with your payroll program, cutting down on human error and mistakes. It should require deliberate action to clock in, clock out, and the same for breaks and lunch. This prevents vulnerability. The system should permit employees to modify, change, correct, edit their own time. It should prompt correction of errors and account for leave. Training is crucial, not just for workers but for management too. Supervisors should never discipline by docking overtime; pay it and then take disciplinary action if needed.



Thank you both for your valuable insights. This has been a comprehensive discussion, and I believe it will be valuable for school districts. We look forward to continued conversations on these important topics and hearing how our peers implement these practices.

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