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# Frostburg Fit, Scenario A: Fair Labor Standards Act, Instructor's Manual

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# Frostburg Fit

## **Scenario A:**

## Fair Labor Standards Act

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**Please note:** All company and individual names in this case are fictional.

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The case begins with introductory information about the organization and is then divided into three scenarios.

Each scenario includes question sets for **undergraduate** and **graduate** students. A debrief is included with each scenario, but because management dilemmas can be resolved using a variety of solutions, expect that students may come up with solutions that differ from those included in the scenarios. This document contains only Scenario A: Fair Labor Standards Act. The scenarios are as follows:

- **Scenario A:** Fair Labor Standards Act
- **Scenario B:** Employee Conduct/HR Strategy
- **Scenario C:** Moonlighting

# Overview

Frostburg Falls is a thriving community 125 miles northwest of Minneapolis recently voted as one of the top 100 small towns in the United States by a major travel and tourism publication. Located in Otter Tail County with a population of nearly 15,500, Frostburg Falls is described by many as having active, engaged residents. Because of its access to numerous biking and hiking trails, lakes, golf courses and retail stores within a vibrant downtown district as well as to a major shopping outlet 10 miles from the town, Frostburg Falls has become a popular destination for retirees. It is also known for its Frostburg Falls Fest in early October, which brings more than 60,000 visitors to the town over a four-day period.

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## Figure 1: Community Data—Frostburg Falls

Population (2015): 15,447 (90% urban, 10% rural)

Population change since 2005: +0.8%

Male: 48.2% (7,445)

Female: 51.8% (8,002)

Median Age: 42.1 years (Minnesota: 37.7)

Median household income: \$45,260 (Minnesota: \$61,702)

### National Origin

White: 91.5

Hispanic: 2.8

African American: 2.3

American Indian: 1.2

Asian: 1.2

Other: 1.0

Unemployment rate: 4.5% (Minnesota: 4.6%)

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Frostburg Fit is a nonprofit recreational facility that was established as the Frostburg Falls Recreation Center in 1993 for the purpose of offering opportunities for the community's youths to increase their level of physical activity. At that time Gail Wolfe, the founder and executive director, served as a physical education teacher at Frostburg Falls Middle School. In her role as an educator, she became increasingly frustrated with witnessing the majority of her students engaging in exercise only during physical education

classes. In the early 1990s video games and television were viewed as the primary culprit for inactivity, which has only magnified with other sedentary activities driven by technology, including the Internet, and in more recent years, by social media and texting. Gail's passion for physical activity and a report at the time by the Otter Tail Health Foundation (see below) that listed childhood obesity as a top-five health concern for Otter Tail County inspired Gail to want to do more than just teach gym classes to a limited number of students. Although she felt she made a difference in her position, she believed physical activity must play an important role outside of school as well.

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**Figure 2: Highlights of the 1993 Otter Tail Health Foundation  
Community Assessment—Childhood Exercise and Nutrition**

**Physical Activity**

About one-fifth of county students reported engaging in 60 minutes of physical activity every day:

- 17 percent of 5th graders
- 21 percent of 8th graders
- 22 percent of 9th graders
- 16 percent of 11th graders

Forty-six percent of 5th graders, 57 percent of 8th and 11th graders, and 56 percent of 9th graders reported 10 or more hours of screen time per week.

**Nutrition**

Rates of overweight and obesity have increased in adults and children.

Among children ages two to five enrolled in the community health study, 13 percent had a body mass index (BMI) greater than or equal to the 95th percentile for their age. For children ages six to 10, the percentage was 17 percent, and for children ages 11 to 15, the percentage was 19 percent.

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With her vision to create meaningful change within the Frostburg Falls community, Gail first approached the borough council with a proposal to build a recreation center at the site of an abandoned shoe factory, which closed its doors due to economic conditions shortly beforehand. Gail's bid included offering after-school and summer programming exclusively for the children (ages 9 to 18) of Frostburg Falls. Gail collected more than 250 signatures from parents and concerned community members, which she presented to the council. In addition, she also brought to the city council meeting several of her current and former students who expressed a concern for the limited areas for physical activity, particularly during the harsh winter months. In comparison to warmer climates, the opportunity for children to experience outdoor activity in Minnesota can be limited to six months out of the year.

Gail's persuasive presentation convinced the council to dedicate start-up funding to open a section of the shoe factory to offer group-facilitated strength and conditioning classes five days each week. Additional funding would have to be approved by the council each year. The borough's agreement included a stipulation of various performance metrics, including number of members, retention of members, and a series of community-based studies focused on improved fitness levels and nutrition of the community's youth in partnership with the Otter Tail Health Foundation. Shortly after the initial funding was approved, two local businesses committed sizable donations to create a basketball court and to purchase exercise equipment. Parents could purchase different levels of membership based on how often their children attended and the types of activities they participated in at the center. The recreation center, referred to as the "Shoe Box" by one of the council members, opened for business on June 11, 1993.

In 1997, the owner of the town's only adult-centered fitness facility approached the borough about purchasing the facility's equipment because he was planning to close the business. The borough agreed to the purchase and relocated the equipment to the recreation center, requiring it to expand to an additional area of the factory and thus increasing the square footage from 2,500 to 6,000 square feet. The borough, shortly after the purchase, opened membership to adults, which increased its membership from 250 children to 650 total members within the first 12 months. The facility expansion also required an increase in the operating hours of the center. The borough manager approached Gail about becoming the full-time director of the center. Gail was conflicted with this offer given that she had dedicated nearly 20 years of her life to the Frostburg Falls School District. However, she accepted the position because she felt she could create more of a lasting impact on the community in this role.

The center now included a kids' gym, adult weight training and cardio room, an exercise room for fitness classes, and an additional room for day care. Locker rooms were also installed shortly after the expansion thanks largely in part to another community donation. To help fund the costs, the borough leased four areas of the factory for retail space, including an athletic apparel store and a nutritional supplement store. A year later, an indoor kid's playground was installed next to the day care location, and the center was at maximum capacity.

In 2005, the recreation center received a state grant to begin construction of a facility next to the existing location that would house a hockey rink and turf field. The hockey arena was named Nichols Arena after Bret Nichols, a native of Frostburg Falls who played in the National Hockey League (NHL) from 1991 to 2003. It was Nichols who had the idea to build an arena in his hometown to provide local opportunities for the youth of Frostburg Falls

and the surrounding communities. Nichols' donation helped pay for almost half of the initial expenses, including the rink, turf field, and equipment for the hockey teams. The rink is used throughout the year and serves as a venue for many local and state hockey tournaments as well as for open skating sessions and group lessons.

In 2007, the recreation center began to expand its reach beyond Frostburg Falls, allowing residents from other local communities to be members. This angered some community members, but most realized it was necessary given the increased labor and capital costs with the continued growth of the center. The membership fees for individuals who were not residents of Frostburg Falls were 20 percent higher. That same year, the borough initiated a marketing study to strengthen the footprint of the center. Among the outcomes, the borough changed the official name of the center to Frostburg Fit. Unfortunately, a year later, the economic recession hit the community of Frostburg Falls quite hard. Beyond just witnessing a decrease in membership, many businesses were forced to close because of the financial environment. The borough, already forced to lay off 5 percent of its staff, including some employees at the center, gave serious consideration to selling Frostburg Fit to a for-profit fitness franchise based out of Minneapolis. However, the leagues and tournaments were still having a positive impact on the hospitality industry within the community, and the borough decided against selling the center.

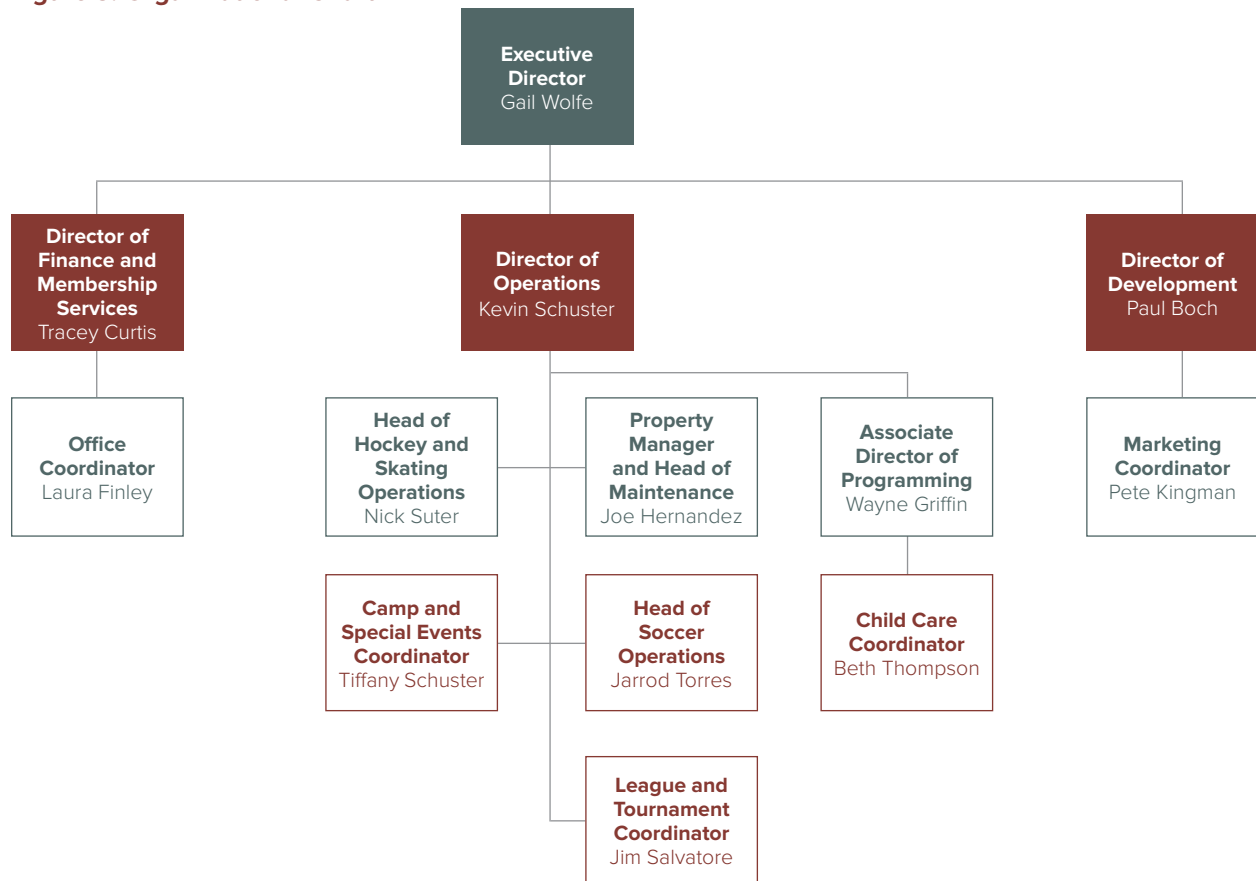
Gail was recently awarded a humanitarian award by the state of Minnesota and traveled to Saint Paul to accept the award. In her acceptance remarks, Gail commented that there is nothing that can stop a community when everyone is going in the same direction. Her remarks only strengthened her position among the residents of Frostburg Falls. Now that the center is only a few years away from celebrating its 25-year anniversary, Gail can look back with pride on all of the accomplishments that have been made, particularly during the difficult economic challenges. Gail is most proud to offer employment opportunities to residents interested in the area of health and well-being. She feels many of the center's exceptional employees would have left the area if it were not for Frostburg Fit.

However, the growth Frostburg Fit has experienced during the past several years has come with its own set of challenges, especially in the area of human resources, which Gail has realized. What began as a community recreation center with five part-time employees in 1993 has now increased to 28 full-time employees and 43 part-time employees, although some questions about the classification of many employees are beginning to surface. Currently, Frostburg Fit does not have a person dedicated to human resources. Laura Finley serves as the office coordinator and is responsible for several aspects of the operations. Among her growing list of responsibilities includes human



resources, but her background in the field is limited, and her role has not been clearly defined. The growth, coupled by a lack of a strong human resource presence to provide both structure and consistency, has placed a pillar in the community at serious risk.

**Figure 3: Organizational Chart**



**Figure 4: Performance Metrics (2010-2015)**

	2010	2011	2012	2013	2014	2015
Number of Members	673	662	692	723	762	796
Annual Increase in Membership	-1.6%	-1.2%	4.4%	4.3%	5.2%	4.3%
Membership Retention	86%	87%	87%	89%	87%	86%
Number of Children (Youth Fit Camp)	53	51	62	68	65	71
Member Satisfaction Score	73%	72%	77%	78%	77%	74%
<b>Annual Giving</b>	<b>\$332,684</b>	<b>\$318,902</b>	<b>\$330,653</b>	<b>\$328,257</b>	<b>\$334,590</b>	<b>\$337,720</b>

# Scenario A: Fair Labor Standards Act (FLSA)

Laura Finley, office coordinator at Frostburg Fit, joined the center in 2010 and transitioned from part time to full time in 2012, increasing her total number of hours each week from 20 to 35. She came to Frostburg Fit shortly after receiving her bachelor's degree in business management. Her responsibilities include administering the biweekly payroll, accounts payable and accounts receivable. She also coordinates employee benefits and provides support with the center's marketing efforts. However, with the recent expansion in staff and increase in turnover, the demands on Laura have increased significantly. The original intention for this position was to be 25 percent human resources with the other 75 percent focused on finance, payroll, marketing and community relations. Laura believes almost half of her time is dedicated to HR given that she is now advertising available jobs, interviewing candidates, conducting background/reference checks, making job offers and onboarding new employees to Frostburg Fit, which includes overseeing the new-employee orientation program. Her performance has exceeded the expectations of both her supervisor (Tracey Curtis, director of finance and membership services) and Gail. Whenever either of them has a question or an issue, it is typically resolved shortly after Laura gets involved. Laura enjoys being able to support Gail and Tracey while learning about the overall operations of the center.

When the recreation center first opened in 1993, the borough appointed a board of directors consisting of dedicated community members with different professional backgrounds. One such community member is Michelle Cartwright, who has brought her skills and expertise in human resources to the board at Frostburg Fit. Michelle has worked for the American Red Cross all of her career, which began in 1992. After graduating from college, Michelle joined the organization as a volunteer coordinator before transitioning to human resources. She now serves as the director of human resources of the American Red Cross for the northwest region of Minnesota. Michelle moved to Frostburg Falls in 2007 and joined the board last year.

According to Gail, Michelle is as dedicated a board member that Frostburg Fit has ever had in its history. In addition to serving as the chair of the recently created HR committee, she is also the vice president of the board and is expected to replace current president, Brad Zaplinski, when his term expires next year. Her time at Frostburg Fit is not limited only to board and committee meetings. In fact, Michelle is an avid runner, and when she is not running mile after mile on one of the center's treadmills, she can be seen between 5:30 a.m. and 6:30 a.m. each Monday, Wednesday, and Friday attempting to beat her personal record in Frostfit, the center's most popular group fitness program.

Michelle occasionally stops by the office when her schedule permits to catch up with Gail and see how Laura is managing her new human resource-related responsibilities. Michelle sees Laura as someone who could assume a management position at Frostburg Fit in the coming years given her performance, collaborative nature and her sound decision-making ability. Michelle also feels Laura has a "knack" for HR despite having a limited background in the field. She knows Laura's responsibilities continue to expand, which Laura first appreciated, but Michelle also is getting the sense that the workload is beginning to take somewhat of a toll on Laura. Since transitioning to full time, Laura married her high school sweetheart, and they welcomed their first child earlier this year.

Both Tracey and Laura appreciate having Michelle be available to lend her guidance when difficult issues arise. Michelle does not want to overstep her role and always keeps Gail informed if anything pertinent comes up in her conversations with either Tracey or Laura. Gail also welcomes Michelle's expertise because the staff does not have much depth when it comes to addressing HR issues. Michelle always tells Laura to contact her if she ever had any questions. One evening, Michelle opened the following e-mail from Laura.

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*SUBJECT: Can we talk? Nothing urgent.*

*Hi Michelle:*

*I hope everything is going well. Madison is starting to sleep through the night, which is a blessing for both Scott and me. I'm wondering if you would have a few minutes to talk the next time you are in the center. Something has been on my mind, and I need your advice. It's not an emergency. As always, thank you for your support.*

*Take care,  
Laura*

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Michelle had a vacation day scheduled for the following day, so she planned to see Laura after an hour-long session on the treadmill. Michelle is planning to run in a half-marathon trail run outside of Cedar Rapids, Iowa, in six weeks.

### **In Laura's office the following day**

When Michelle arrived at the doorway of Laura's office, Laura appeared both surprised and excited to see her. "Good morning, Laura," Michelle said. Laura replied, "Good morning, Michelle. I see you got your workout in already. You put me to shame with your discipline." Smiling from Laura's response, Michelle added, "The half-marathon will be here before I know it. Anyway, today's a vacation day for me, so your message was good timing. Is it OK for you to talk now?" "Of course," added Laura. She continued, "Thank you for taking the time. I promise it won't take long." Michelle replied, "Don't worry. Take as long as you need."

Laura started off acknowledging how grateful she has been for the opportunities provided to her by Gail and Tracey. She continued, "I look back at when I started in 2010 as a part-time employee unsure about my future. Now, I see how much I have grown professionally, and I'm thankful to be able to build a career and family in the town I grew up in." Michelle listened intently awaiting what was to follow. "Tracey suggested I attend a one-day HR workshop last week in Minneapolis, which was eye-opening in so many ways," added Laura. Michelle responded, "How so?" Laura replied, "Well, for one I heard about the Fair Labor Standards Act (FLSA) a few times when I first started getting involved in employee relations issues, but I really didn't know what it was about until I attended the workshop." She added, "Knowing what I know now has me concerned." Michelle replied hesitantly, "OK, tell me more." Laura continued, "From what I understand, I am a nonexempt employee." She looked at Michelle in a manner to seek approval. Michelle replied, "That is correct. Do you know why?" Appearing somewhat uncertain, Laura stated, "I believe it is because I am not a supervisor." Michelle acknowledged that supervisory responsibilities is one of the tests the United States Department of Labor uses to determine an employee's classification. She added, "Others include salary, independence of judgment, advanced knowledge and technical competency. It also means that you and other nonexempt employees who work beyond 40 hours in a week must be paid overtime, one and a half times your salary." Michelle continued, "It sounds as if you identified issues in which we may be in violation, starting with your position." Laura cautiously replied, "I think so, but, like I said, I didn't know. We have been so busy that all I focused on was getting the job done." Michelle did her best to balance sympathy with seriousness. Taking a more active role in the discussion, she asked, "Have you worked beyond 40 hours in a week?" "Oh yes, many times,"

replied Laura. She continued, “But I know the budget is tight, and the work needs to get done.” Michelle added, “I appreciate you bringing this to my attention, but following the FLSA is not a best practice but a requirement of the law.” As she was getting up to leave Laura’s office, she hesitated for a moment before asking her final question, partly because she already knew the answer, “Given that it has been so busy, is it safe to assume that your job description has not been updated to reflect the duties you are currently performing?” Laura, looking somewhat embarrassed, simply responded, “It hasn’t.” Michelle knew the issue was not isolated to just Laura’s position as evidenced by similar experiences she has witnessed in the past. After a short hesitation, Laura said, “I’m not the only one. Some feel pressured to get the work done as quickly as possible no matter what. They either work from home or come in during their time off. I know some supervisors have no clue. They just want the work done.”

## UNDERGRADUATE QUESTIONS

**How would you determine Laura’s position classification (exempt vs. nonexempt)? Assuming the position is nonexempt, should Laura be paid for hours she worked in the past?**

First, it is quite concerning that Laura’s job description has not been updated. Nor has a determination been made about the job’s exempt vs. nonexempt classification. As a human resource professional, Michelle would want to know if job descriptions exist and are up-to-date for all positions at Frostburg Fit regardless of classification. Having current job descriptions on file is a fundamental human resource practice that is vital to so many aspects of an organization, including determining its classification under FLSA, recruiting, selection, training, performance management, compensation and employment compliance. It is ideal for job descriptions to be updated annually and whenever a position is vacant. Although there is not a definitive time to update job descriptions, many human resource professionals suggest supervisors revise job descriptions (as needed) during the performance evaluation process.

When a position has been created or redefined, it is ideal for an organization to conduct a job analysis to determine the appropriate classification. DeCenzo, Robbins, and Verhulst (2013) defined a job analysis as “a systematic exploration of the activities within a job.” In other words, it is a comprehensive process that identifies the duties and responsibilities of a position (or multiple positions) that can be conducted by the incumbent, supervisor or an outside human resource professional. Most organizations must comply with the Fair Labor Standards Act (FLSA), but only nonexempt positions must meet the requirements of FLSA.

Laura should be paid for the hours that she has worked in the past. According to the United States Department of Labor (DOL), a nonexempt employee “must be paid for all of the time considered to be hours worked and all time that is hours worked must be counted when determining overtime hours worked.” This is regardless of whether Tracey, Laura’s immediate supervisor, authorized her to work overtime. Similar to Laura’s response, many nonexempt employees who find themselves in similar situations simply say that they did not know the law or that they do not want to be paid for the additional time, which is not an option under the FLSA, administered by the Wage and Hour division of the DOL. With the best intentions, many nonexempt employees put the organization’s interest at heart when faced with such a situation when in fact it is in the organization’s best interest to pay the individual for the time worked to minimize risk and to avoid potential litigation against the employer.

Of course, there are a number of negative ramifications that can affect Frostburg Fit when it does not comply with the FLSA. The first step Frostburg Fit must do in this situation is to try to accurately determine the number of hours that Laura has worked beyond her normal 35-hour-per-week schedule. Based on information presented in the case, this does not appear to be a one-time occurrence and has more than likely occurred over several time periods. Of course, Laura would still be paid at her normal rate if she worked between 36 and 40 hours per week. The center would also have to determine if other nonexempt employees exceeded their normal work schedules in the past. If they did, when specifically and by how many hours each pay period?

Given the center’s limited expertise in human resources, Michelle might have to become more involved by working directly with Laura to determine a fair number of hours she should be paid. As a board member, though, she may wish to abstain from this level of involvement in an employee relations matter given that she and Laura will continue to work closely with one another for the next several years. In situations such as this, it would be advantageous for the center to ask a third-party expert to assess this matter. An alternative could be to contract with an employment law attorney, which could prove costly, particularly since Laura is probably not the only nonexempt employee who has worked unauthorized overtime without being paid. However, it may be a necessary tradeoff to mitigate risk.

**Should Laura be disciplined for working beyond her 40-hour schedule without receiving approval from her supervisor? If Laura continues to work beyond 40 hours per week, what options does Tracey have besides paying Laura overtime?**

In most instances, the answer to the first question would be yes, but this

is not a typical instance. This appears to be the first time that Frostburg Fit has addressed this specific matter. At this point, the center is not sure how many nonexempt employees are involved and for how long they have been working unauthorized overtime. This should not be mistaken with giving the organization or its management a “pass.” An employer has an obligation to know the law and not use the excuse that it is limited in human resource knowledge. In many instances, employees and supervisors do not communicate when the need arises to work additional time beyond the normal working schedule. For employees, they understand the work that needs to be completed and the time frame to complete the work. For supervisors, they are simply expecting the work to be accomplished. This is not to say that all supervisors are either unwilling to pay overtime or do not care for the well-being of employees. Again, it primarily has to do with understanding the FLSA regulations and strictly enforcing them. According to the DOL, seven in 10 U.S. employers are violating wage and hour regulations, resulting in the number of wage complaints to increase two-fold in the last 10 years (DeCenzo, Robbins, & Verhulst, 2013). Many employers believe it is simply a good business decision to make employees salaried regardless of their duties to avoid paying overtime. However, they do not apply the appropriate duties tests to determine the appropriate classification (Rosen, 2014). FLSA regulations state that employees must pass all three tests to be considered exempt. They include:

- Be paid at least \$23,600 per year (\$455 per week).\*
- Be paid on a salary basis.
- Perform exempt job duties (including executive, management, technical and professional).\*\*

\*It is also important for students to know that in the summer of 2015, the DOL published proposed regulations that could increase this amount two-fold. According to the DOL, if the regulations are passed, 4.6 million Americans who are currently considered exempt would now be entitled to receiving overtime payments (Zalewski, 2015).

\*\*SHRM provides a template to determine position classification, found at ([http://www.shrm.org/templatestools/samples/hrforms/articles/pages/1cms\\_018238.aspx](http://www.shrm.org/templatestools/samples/hrforms/articles/pages/1cms_018238.aspx)).

That said, Laura should not be disciplined for the incident. In fact, one would argue that she should be commended for being open and honest with Michelle and for addressing the matter after attending the training session. This alone made the training she attended a good investment for the center. Also, Tracey, Laura’s supervisor, was not even aware of any violation taking place. Tracey may have noticed Laura working additional hours and simply praised her for her dedication to the center. Once again, Tracey’s lack



of knowledge of FLSA regulations is not an excuse. Though most of the human resource work has been shifted to Laura, Tracey, as the department head, is responsible for the employment matters within the organization.

A couple of options must be considered if Laura is expected to work in excess of 40 hours on a regular basis. Any caring supervisor would first ask the question of whether such an approach is sustainable for staff. Having to work overtime is quite common in the short-term as project deadlines near or when staffing is not at an optimal level, requiring additional time to complete the necessary tasks.

In this case, there was nothing mentioned about the current staffing level at Frostburg Fit. From a human resource perspective, it is important to examine Laura's position by conducting a job analysis. As the case indicates, Laura's position has grown significantly since she was originally hired. She transitioned to full time and has taken a bulk of the human resource responsibilities. If Laura's productivity was a concern, that could be addressed to help avoid overtime, but the case also indicates that Laura's performance has exceeded the expectations of both Gail and Tracey. The job analysis should not be contained within the office coordinator position because there may be other positions at the center that have the capacity to take on additional responsibilities.

Another option would be flextime. Flextime has traditionally been considered a benefit for employees allowing for individuals to select their start and end times within reason (employees typically must work during a core set of hours when operations are at their peak during a day). However, flextime can also be viewed as a mechanism for supervisors to limit the budgetary concerns that overtime presents to an organization. In Laura's case, Tracey could ask Laura to stay late to finish a project one evening while have her leave early on a day later that week if budgetary constraints prevent her being approved to work beyond a standard workweek in a pay period.

**If you were Laura, what would be your next step given Michelle's guidance? Should Michelle do anything in her role? How can Frostburg Fit obtain an accurate account of overtime hours by nonexempt employees?**

Assuming Laura has not already spoken with Tracey, it is suggested that she have a similar conversation that she did with Michelle, explaining to Tracey what she learned at the conference and how she has worked several weeks beyond her normal schedule of 35 hours. Laura or Tracey should also discuss this with Gail to inform her of the potential legal and budgetary implications for the center. Of course this goes well beyond Laura's particular situation because this issue could be systemic across Frostburg Fit. Michelle should

also speak with the board about this issue given the serious nature and also lead the efforts in addressing this matter as soon as possible until resolution is reached. For resolution to occur, it will be necessary for conversations to take place with each of the supervisors at the center who supervises nonexempt employees. During those discussions, it must be determined if unauthorized overtime was worked in the past by individual employees, and if so, to what extent.

## **GRADUATE QUESTIONS**

### **What impact does the limited amount of experience in human resources within the Frostburg Fit staff present? Should Laura be considered as the full-time human resource staff member?**

Employee relations scenarios such as the one described in this case happen quite frequently, even at a small organization like Frostburg Fit. As the case states, there has been a significant amount of turnover among staff despite the organization continuing to grow in its programming. The growth and changes that have occurred at Frostburg Fit naturally create some unrest among employees, even if management effectively manages the change.

As an organization grows, it is important to evaluate the human resource capacity that currently exists both in the staff and on the board. It appears that Laura has been identified as the staff member who has been tasked to oversee the human resource aspects of the center. Sending Laura to a one-day training session demonstrates a commitment to Laura's growth and Frostburg Fit's concern for the organization to build its human resource knowledge base.

Given the current size of Frostburg Fit (28 full- and 43 part-time employees) and its growing operation, the organization will have to give serious consideration whether to have a dedicated resource to address the human resource function of the center. It certainly appears that Laura has both the interest and ability to be successful as a human resource professional. However, future success will depend, in large part, on ongoing training and continued experience to give her more of a foundational understanding of the field. One suggestion would be for Laura to become a member of the local Society for Human Resource Management (SHRM) chapter to build her network of human resource professionals while also taking advantage of the national resources SHRM has to offer. Her shifts in duties and the organization's commitment to human resources should also require Frostburg Fit to consider Laura's position to be completely dedicated to human resource programming, services and compliance. This may require either hiring an additional employee to conduct Laura's current non-HR duties or reevaluating other positions to determine if someone

currently on staff has the availability and experience to assume those duties. There is no exact formula for when an organization should commit a full-time resource to human resources, but many of the issues that Frostburg Fit is experiencing, including rapid growth and cultural change, are indications that such a position should be strongly considered (Lucas, 2014).

The center should also give consideration to hiring someone from outside the organization who brings in-depth human resource experience to Frostburg Fit. This is not taking anything away from Laura who, by all accounts, is doing the best she can in this environment. She certainly needs more human resource experience and training, which requires time and resources. Having someone who has a significant background in human resources in multiple working environments could help address the challenges in a more expedited manner.

Identifying a staff member to oversee human resources is a critical first step for the organization. However, Frostburg Fit must also think more long term. From a staffing perspective, it should identify an employee who could cross-train with Laura once her new duties have been identified. Failure to implement such a process could revert the organization back to where it was originally should Laura ever decide to leave the organization or should a health-related matter force her to be on leave for an extended period of time. From a board perspective, Michelle has served the organization quite well. It is vital for any organization to identify a strong human resource professional to serve on its board. However, Michelle will soon be transitioning to become the board president, which will bring a different set of responsibilities for her to perform. In addition, Michelle's term as a board member will expire. Therefore, it will be important for the board to identify another human resource professional to serve. Regardless of the size of the organization or the board, every board should be represented by at least one human resource professional who can help the organization think about human resources from a strategic perspective while also providing guidance, when necessary, on operational issues (Grace, 2009).

### **Should Laura be paid for the time she spent traveling to and from the conference?**

The answer to this question depends on when the travel and the conference occurred. Let's assume that Laura's normal working hours are 8:30 a.m. to 4:30 p.m. (Monday through Friday). Let's also assume that the travel to and from the conference in Minneapolis and the conference itself both took place during weekdays. Finally, for the sake of this exercise, let's say Laura traveled from 6 p.m. to 9 p.m. the night before the conference. Using the above hypotheticals, the question becomes did Laura drive herself to and

from the conference? If the answer to this question is yes, and it is at the discretion of the employer, the travel time is considered work time (SHRM, 2014b). If she was a passenger in the vehicle, she is not required to be paid unless she was performing work during that time. This decision is at the discretion of the employer. Also, if Laura had access to public transportation and still decided to drive herself to the conference, it is also at the employer's discretion to pay her only for the time traveled during her normal working hours. Keep in mind that Laura is a nonexempt employee. If she were an exempt employee (meaning exempt from overtime), it would not matter when the travel and conference took place. A policy should be developed to provide consistency when similar occurrences happen at the center.

**Given this issue, draft an overtime policy for consideration that abides by the practices of the Fair Labor Standards Act.**

Drafting an overtime policy can be particularly challenging, and this challenge is magnified based on the number of different types of nonexempt positions and the nature of work that exists within a particular organization. Below is a suggested minimal list of topics that should be addressed within an overtime policy pertaining to Frostburg Fit.

- **State the purpose of the policy.** State that the purpose of the policy is to comply with the requirements listed within the Fair Labor Standards Act (FLSA) and to manage the costs of overtime within the organization.
- **Time frame.** Provide the parameters of a workweek. A typical example would be a start time of 12:00 a.m. on Sunday and an end time at 11:59 p.m. on Saturday.
- **Eligibility.** State that only individuals who are classified as nonexempt employees qualify for overtime payment.
- **Payment.** State that nonexempt employees will be paid one and one-half times the individual's normal hourly payment above 40 hours per week. In addition, statements are usually included that employees whose normal work hours are less than 40 (e.g., 35 or 37.5) will be paid their normal rate (straight time) up until 40 hours.
- **Paid leave.** Address that paid leave, including vacation, holiday and sick, are not counted as time worked for the purposes of calculating overtime.
- **Authorization.** Address that employees are required to seek prior authorization from their immediate supervisors before working any additional hours beyond their normal schedules, given the budget implications. Employees will be paid for all overtime worked regardless of whether the time was authorized, but not having prior authorization can result in disciplinary action for the employee. Of course, supervisors who require employees to work overtime but do not pay for the additional time worked are also subject to discipline.

- **Schedule adjustment.** State that as an effort to limit the constraints on a budget, a supervisor may instruct employees to work fewer hours than their normal daily schedules if the employees exceeded their normal hours one or more days during the same week.

Below is an adaptation of a sample policy developed by SHRM that can be used in this scenario:

### **Purpose**

The purpose of this policy is to control labor costs by managing the expense of overtime pay to nonexempt employees.

### **Compliance**

Frostburg Fit will pay time and a half to nonexempt employees who exceed 40 hours of work time in a workweek. Paid leave, such as holiday, sick or vacation pay, does not apply toward work time. The workweek begins at 12:00 a.m. on Sunday morning and ends at 11:59 p.m. on Saturday night. Although employees are normally scheduled for a 37.5-hour workweek, overtime payments do not commence until the employee exceeds 40 hours in a workweek.

### **Overtime Approval**

Supervisors are required to obtain approval from managers prior to the use of overtime. Employees who anticipate the need for overtime to complete the week's work must notify their supervisors in advance and obtain approval prior to working hours that extend beyond their normal schedule. Although overtime payments do not commence until the employee exceeds 40 hours in a workweek, approval is required for hours that exceed 37.5 hours in a workweek.

### **Mandatory Overtime**

During busy periods, the employer may require employees to work extended hours.

### **Consequences of Overuse of Overtime**

Staff members who work overtime without prior approval from management will be subject to disciplinary action. Supervisors who continually rely on the use of overtime hours to complete a week's work without it being deemed as extenuating circumstances by management will be subject to disciplinary action.

## Consequences of Unauthorized Overtime

Employees who fail to obtain approval prior to working hours that extend beyond their normal 37.5-hour workweeks will be subject to disciplinary action. Overtime offenses may result in termination.

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