

FLSA Changes

Overtime Regulations and How They Affect You

Fair Labor Standards Act (FLSA)

- ▶ Establishes minimum wage & overtime standards
- ▶ Distinguishes between exempt and nonexempt (overtime eligible) employees
- ▶ Establishes overtime threshold (40 hrs. per week)
- ▶ Specifies record-keeping requirements

Changes to FLSA

- ▶ Department of Labor (DOL) has made significant changes to the salary threshold for determining eligibility for overtime compensation
- ▶ Currently: \$455 weekly = \$23,660 annually
- ▶ Effective December 1, 2016: \$913 weekly = \$47,476 annually

Temporary Injunction

On November 22, 2016, a U.S. District Court judge issued a preliminary injunction postponing the December 1st effective date of the U.S. Department of Labor (DOL)'s overtime salary threshold increase.

What does this mean?

- ▶ The contents of this presentation are accurate for those employees whose duties have been determined to be Nonexempt.
- ▶ Those employees with exempt duties who were changing to Nonexempt on 12/1/16 based on the new salary threshold will remain Exempt. Human Resources will advise the University community when and if a change is implemented.

Significance

- ▶ University positions were previously designated solely as Classified or Unclassified
- ▶ Unclassified positions will now also be designated as Exempt or Nonexempt (overtime eligible)
- ▶ Changes to FLSA do not affect Classified positions

Human Resources Study

- ▶ HR examined duties and compensation of current Exempt positions
- ▶ Determined if positions should be converted to Nonexempt status
- ▶ Decision based on duties and responsibilities (DOL duties test)
- ▶ Exemption status NOT based on classification, role, working title or category of position

Exemption Determination Factors

- ▶ Must satisfy three criteria to be considered **Exempt** from overtime:
 1. Paid on a salaried basis
 2. Meet or exceed the new salary threshold (\$913 wk./\$47,476 yr.)
 3. Primary duties consistent with exempt categories as defined by the Department of Labor (DOL) duties test
- ▶ If all criteria not met, position considered **Nonexempt** (eligible for overtime)

Exempt Categories

- ▶ **Executive:** primary duty is managing the enterprise, or a department; ability to authorize personnel actions
- ▶ **Administrative:** primary duty includes exercising discretion and independent judgement with respect to matters of significance to the enterprise
- ▶ **Learned Professional:** primary duty is to perform work that either requires advanced knowledge in a field of science or learning
- ▶ **Creative Professional:** primary duty is the performance of work requiring invention, imagination, originality, or talent
- ▶ **Computer Professional:** primary duty is application of system analysis techniques, design, development, or modification of computer programs

Specific Guidance for Higher Education

▶ Instructors

Exempt if primary duty is teaching, tutoring, instructing or lecturing. No salary requirement for bona fide teachers.

▶ Academic Advisors and Counselors

- ▶ Primary duty is performing administrative functions directly related to academic instruction or training.
- ▶ Must be paid on a salary basis at least equal to the entrance salary for teachers.
- ▶ UL Instructor Minimum: $\$34,000/10\text{-month} = \$45,333/12\text{-month}$

Specific Guidance for Higher Education

▶ Postdoctoral Fellows/Scholars

- ▶ Often meet the duties test for the “Learned Professional” exemption.
- ▶ Must also satisfy the salary basis and salary threshold to qualify for this exemption.

▶ Athletic Coaches

- ▶ Qualify for the teaching exemption if their primary duty is instructing student-athletes about physical health, teamwork, and safety.
- ▶ Primary duties such as recruiting or administrative work do not satisfy the teacher exemption.

Specific Guidance for Higher Education

▶ Graduate Teaching Assistants

Covered under the teaching exemption, if teaching is primary duty.

▶ Graduate Research Assistants

Ineligible for overtime compensation if engaged in research under a faculty member's supervision while pursuing a degree.

▶ Graduate Assistants

Ineligible for overtime compensation as prohibited from working full-time.

▶ Resident Assistants

Generally not considered employees under FLSA, as compensation includes reduced room or board charges or tuition.

Exempt Positions

- ▶ Pass exempt duties test AND meet salary threshold
- ▶ Ineligible for overtime compensation
- ▶ Will continue earning 1 hour of Compensatory time for each hour worked in excess of 40 hours in a work week*
 - ▶ NOTE: Not all Exempt positions earn compensatory time
- ▶ No cash value for Comp. time balance upon resignation or retirement

*annual, sick, and holiday leave do not count toward hours worked

Nonexempt Positions

- ▶ Do not meet the salary threshold and/or exempt duties test
- ▶ Eligible for overtime compensation
- ▶ Will earn 1.5 hours of Compensatory time for each hour worked in excess of 40 hours in a work week*
- ▶ When Comp. time balance reaches 30 days (240 hours), any excess comp. time will be paid to employee
- ▶ Upon retirement or resignation, Comp. time balance will be paid to employee

*annual, sick, and holiday leave do not count toward hours worked

FLSA changes will not affect:

- ▶ WebAid process for requesting compensatory time, submitting timesheets, or recording comp. time worked remains the same
- ▶ Exemption status does NOT affect:
 - ▶ Job title
 - ▶ Rate of pay
 - ▶ Annual or sick leave accrual rate
 - ▶ Leave charged for forced holidays
 - ▶ Benefits eligibility

What does this mean for the University?

- ▶ Previous Exempt positions may be converted to Nonexempt status, becoming eligible for overtime compensation.
- ▶ Budgets may require adjustment to accommodate Comp. time payouts to Nonexempt employees.
- ▶ All overtime worked by Nonexempt employees must be compensated.

What should supervisors discuss with employees who are becoming Nonexempt?

- ▶ Clearly communicate work schedule practices in order to manage hours for newly Nonexempt employees, especially if their duties will not be changing.
- ▶ Review guidelines for responding to email or calls outside of normal work hours as this constitutes overtime.
- ▶ Advise Nonexempt employees of priorities to avoid “last minute” projects requiring overtime to complete.

What should supervisors discuss with employees who are becoming Nonexempt? (cont.)

- ▶ Discuss adjustments to work schedules when work must occur outside of normal business hours.
- ▶ Require that all Comp. time be approved prior to overtime being worked.
 - ▶ Discuss potential for disciplinary action for working unauthorized overtime.
- ▶ Explain how to request, track, and report Compensatory Leave.

Moving forward...

- ▶ All position requests will be reviewed by the Office of Human Resources to ensure proper exemption status is assigned during the position approval process.
- ▶ Updated Job descriptions will be essential to proper FLSA classification, especially as positions evolve and change.

Overview of Changes

Classified Positions

- All currently Nonexempt
- Not affected by changes to FLSA

Faculty

- Exempt as Teaching is primary duty
- No salary minimum

Positions Remaining Exempt

- No changes
- Continue to earn comp. time at rate of 1:1*

*Not all Exempt positions earn comp. time

Nonexempt due to Salary Threshold (Meet duties test for exemption)

- Current comp. time balance remains as is (no cash value)
- Beginning Dec. 1st can earn overtime at rate of 1.5 hours for each hour worked above 40 per week
- Only comp. time earned as Nonexempt employee will be paid upon separation

Nonexempt due to Duties Test

- Current comp. time balance increased by 50%
- Beginning Dec. 1st can earn overtime at rate of 1.5 hours for each hour worked above 40 per week
- All comp. time paid upon separation

Questions should be directed to HRreply@louisiana.edu

The final determination of exemption status is determined by the Office of Human Resources.

Thank you for your cooperation as we work to make this transition as smooth as possible.