

Fair Labor Standards Act (FLSA) Updates August 2016

What is FLSA?

The Fair Labor Standards Act (FLSA) is a federal law that governs pay, overtime eligibility, record keeping and child labor standards affecting full and part time workers.

FLSA

- FLSA generally presumes employees are not exempt and are entitled to overtime pay
 - Exempt = NOT eligible for overtime pay
 - Non-Exempt = eligible for overtime pay
- Employees may be exempt from this law if they meet three tests:
 - Meet minimum salary level
 - Pass the job duties test
 - Paid on a salary basis

FLSA Rule Changes – Why?

- The Department of Labor (DOL) was tasked with updating the FLSA regulations in 2014 to ensure workers were paid fairly
- DOL proposed rule changes in June of 2015.
- The final rule change was approved by the US Office of Management and Budget (OMB) and released May 18, 2016.

Rule Changes

December 1, 2016 the new rule change goes into effect.

- Salary Threshold Change
 - New annualized salary level will be \$47,476 or \$913 per week.
 - Increased from \$23,660 per year or \$455 per week
 - Salary level must be met in order to be exempt, in addition to the duties test (with some exceptions)

Rule Changes - Continued

- Automatic salary increases every three years
 - January 2020
 - Estimated new salary threshold will be \$51,168
- No changes to job duties requirements
- Most employees earning less than \$47,476 per year will be non-exempt
 - Note: Part-time employee salaries cannot be annualized to a full-time equivalency to meet the salary threshold.

How does this impact us?

- Affected
 - Some Academic Professionals
 - Some Exempt Civil Service
 - Some Research Associates
 - Some Post Doctoral Research Associates
 - Some Resident Advisors
 - Some Coaches
 - Some Postdoctoral Fellows
- Not Affected (exempted under separate provisions of the Act)
 - Faculty (including Specialized Faculty)
 - Physicians
 - Medical Residents and Veterinary Medical Residents
 - Attorneys

University of Illinois Implementation

- Impacted employees will be changed to salaried non-exempt
 - Salary covers regular pay for all hours worked (does not fluctuate)
 - Overtime is paid at 1.5x (time and a half) hourly rate
 - Academics: regular salary paid monthly; OT hours worked in excess of 40/week paid bi-weekly
 - Civil Service: OT paid for hours worked in excess of 7.5/day or 8/day (regular and OT paid bi-weekly)

Overtime Example #1

- Chris, a Research Programmer (AP) has an annual salary of \$45,000 (\$3,750/month).
 - Chris' AP workweek base is 40 hours
 - Chris works 50 hours one week during the month of December
 - Chris will be paid her regular monthly salary of \$3,750
 - Chris will report 10 hours of overtime for the week
 - Chris' salaried hourly equivalent rate is \$21.64
 - Chris will be paid $10 * \$32.46$ (1.5x hourly rate)

Overtime Example #1

- Amy, a part-time Research Programmer (AP) with a .50 FTE has an annual salary of \$45,000 (\$3,750/month).
 - Amy's AP workweek base is 20 hours
 - Amy works 41 hours one week during the month of December
 - Amy will be paid her regular monthly salary of \$3,750
 - Amy will report 20 hours of straight time for the week
 - Amy will report 1 hour of overtime for the week
 - Amy's salaried hourly equivalent rate is \$21.64
 - Amy will be paid $20 * \$21.64 + 1 * \32.46 (1.5x hourly rate)

Overtime Example #3

- Pat, an Administrative Aide (CS), has an annual salary of \$40,000 (\$1,538.25/biweekly)
 - Pat's CS workweek base is 37.5 hours
 - Pat works 41.5 hours one week during the month of December
 - Pat will be paid his regular biweekly salary of \$1,538.25
 - Pat will report hours of daily overtime for the week
 - Pat worked 2 hours overtime each on Tuesday and Wednesday,
 - for a total of 41.5 hours for the week
 - Pat's hourly rate is \$20.51
 - Pat will be paid 4 hours * \$30.76 (1.5x hourly rate)
 - Daily overtime is required

Potential Impact to the University of Illinois

- Approximately 2600 employees

Implementation Considerations

- Consider *some* increase of salaries to new threshold of \$47,476
- Transition impacted employees to salaried non-exempt
- Transition impacted employees to hourly non-exempt
- Restrict hours of employees

Implementation Challenges

- Implementation process for overtime reporting
- System Changes/adaptation
- Cost
- Paradigm shift for employees and administrators
 - All work time must be reported (i.e., checking email on phone at night)
 - Vacation and sick leave reported in actual time used, not half or full-day increments
 - Attending events like the Budget Presentations will not be “automatic” for impacted AP’s
 - Approved events
- Employee morale likely biggest challenge
 - Many employees think the level of professionalism is defined by whether they are eligible for overtime
 - Job hasn’t changed, still professional but now will be required to report time
 - Perceived (and real) loss of flexibility

Approximate Timeline

- July 2016 – Analysis Phase of individual positions/employees
- July 2016 – October 2016 – Systems development and testing for time reporting
- October 2016 – Individual meetings with impacted employees
- October 2016 – Training for employees and units/supervisors
- November 20, 2016 – Begin date for overtime reporting
- December 14, 2016 – First pay date in which overtime could be paid

What's Next?

- University-wide committee continues work on implementation of processes, procedures, and systems.
- Campus Human Resources will collaborate with you on:
 - Position review
 - Final determination of position/employee status
 - Notification to employees
 - Training