

The Fair Labor Standards Act (FLSA) establishes standards for such items as minimum wage and overtime pay for full-time and part-time employees. In August 2004, regulation changes were made that affect which employees are exempt from these regulations. Revisions to University policies and procedures for determining exempt status were implemented based on these changes.

**General Information**

Employees not meeting exemption requirements were moved to the FLSA salaried non-exempt category **August 16, 2005**. The main impacts of this change were:

- Employees track their work time via a timesheet
- Employees are eligible for overtime pay via compensatory time (comp time) or overtime pay

**General Information**

Question	Answer
<p><b>Do I need to determine if my employees meet the requirements to be Exempt under FLSA? If so, when do I determine it?</b></p>	<p>You should verify that <u>new</u> Academic Professional employees and <u>new</u> exempt Civil Service classification employees meet the minimum salary requirement by using the <i>Academic/Staff Weekly Salary Calculator</i> in DART at <a href="https://hrnet.uihr.uillinois.edu/dart-cf/admin/dartcalculator.cfm">https://hrnet.uihr.uillinois.edu/dart-cf/admin/dartcalculator.cfm</a>.</p> <p>This should be determined before a verbal or written offer is extended. You do not need to review the duties worked against FLSA regulations; the University FLSA committee conducted this review and determined that <b>all</b> Academic Professional and <b>all</b> currently exempt Civil Service classifications met the duties test under FLSA.</p>
<p><b>What is the minimum salary requirement an employee must make to be considered Exempt from FLSA?</b></p>	<p>An employee must make <b>\$455</b> per week to be considered Exempt. This rate cannot be prorated based on FTE. To determine an employee's weekly salary, use the <i>Academic/Staff Weekly Salary Calculator</i> in DART at <a href="https://hrnet.uihr.uillinois.edu/dart-cf/admin/dartcalculator.cfm">https://hrnet.uihr.uillinois.edu/dart-cf/admin/dartcalculator.cfm</a>.</p>
<p><b>Since all Academic Professional employees passed the duties test, can an AP be considered Exempt even if he/she did not meet the minimum \$455/week salary requirement?</b></p>	<p>No, to be considered exempt under FLSA, you must pass both the duties test and the salary test. If an AP employee makes less than \$455 per week, he/she must be classified as <u>salaried non-exempt</u> and must follow the tracking and overtime rules.</p>
<p><b>Should all assistantship positions be classified as salaried non-exempt?</b></p>	<p>No, only straight Graduate Assistants (GA) failed the duties test and must be considered salaried non-exempt. Teaching Assistants (TA), Research Assistants (RA), and Para-Professional (PGA) assistants are exempt from following FLSA regulations because of their Academic role. Therefore, TA's, RA's, and PGA's are exempt from FLSA regardless of the salary they make.</p>

## General Information

Question	Answer
<b>How can I tell in Banner if an employee is exempt or non-exempt?</b>	<p>The Civil Service Exempt indicator is contained in the Employee Class description. All full-time Academic Professionals are exempt and the exempt indicator defaults from the position class. For part-time Academic Professional employees that do not meet the minimum salary requirement, the Exempt Indicator field on NBAPOSN will be unchecked. Similarly, the exempt indicator for Graduate Assistants (GA) defaults to non-exempt and will be unchecked. The exempt indicator will be maintained by campus/central Human Resources.</p> <p>It is possible for more than one person with the same p-class to have different exempt statuses because of differing salaries.</p>
<b>Where can I find additional information regarding FLSA or Salaried Non-Exempt or Exempt Academic employees?</b>	<p>Additional information and resources are available in the UHR website at <a href="https://hr.uillinois.edu/PolicyCompliance/Legislation/LegislativeLibrary/FLSA.cfm">https://hr.uillinois.edu/PolicyCompliance/Legislation/LegislativeLibrary/FLSA.cfm</a>.</p>
<b>Who can I contact with questions?</b>	<p>Contact your campus HR office: <b>UIC</b> 312-413-4848 or <a href="mailto:uicrhhelpdesk@uillinois.edu">uicrhhelpdesk@uillinois.edu</a> <b>UIS</b> 217-206-6652 <b>UIUC</b> 217-265-5620 or <a href="mailto:ahr@uillinois.edu">ahr@uillinois.edu</a> <b>UA</b> 217-333-2600 or <a href="mailto:erhr@uillinois.edu">erhr@uillinois.edu</a></p>

## Tracking Time

Question	Answer
<b>Where can I find the Salaried Non-Exempt Academic Timesheet?</b>	<p>The timesheet is available in the HR Forms section of the UHR website at <a href="https://hr.uillinois.edu/PolicyCompliance/Toolkit/UniversityForms.cfm">https://hr.uillinois.edu/PolicyCompliance/Toolkit/UniversityForms.cfm</a>. There is a separate timesheet for each monthly pay period. Timesheets are in Excel format and can be downloaded and saved to the user's desktop.</p>
<b>Does the employee need to track their time even if they never work over 40 hours in a week?</b>	<p>Yes, the employee must track their time each day even if they do not work over 40 hours in a week. These records must be maintained within the unit (electronic or paper).</p>
<b>How do I track hours worked for weeks when the pay period starts/ends on a day other than Sunday or Saturday?</b>	<p>The timesheets have pre-populated dates so that tracking is for a full week. For some pay periods, employees will be tracking days that actually fall in a different pay period. This is necessary to properly compensate for hours worked over 40 in a workweek.</p>
<b>What happens if an employee does not complete a time sheet?</b>	<p>The unit supervisor is responsible for and should monitor time sheet completion by all salaried non-exempt employees. If an employee fails to complete the time sheet, the unit should contact campus/central Human Resources to discuss implications and next steps.</p>

## Tracking Time

### Question

### Answer

**When must the time sheet be signed and by whom?**

#### **Academic Employees**

The employee's signature and the signature of the unit approver (i.e. supervisor) are required **only when the employee incurs overtime** during any week in that pay period. The unit approver must be a University employee. A copy of the signed timesheet should be retained within the unit (paper or scanned electronically).

If the employee does not incur any overtime during that pay period, the timesheet still must be maintained within the unit, but no signatures are required.

#### **Civil Service Employees**

The employee's signature and the signature of the unit approver (i.e. supervisor) are required. The unit approver must be a University employee. A copy of the signed timesheet should be retained within the unit (paper or scanned electronically).

**How long must I keep timesheet records in my unit?**

You must retain a copy (paper or electronic) of all timesheets for your salaried non-exempt employees for a minimum of 4 years from the date taxes are paid on the hours worked, or 3 years after termination, whichever is longer.

## Overtime Compensation

### Question

### Answer

**What if an employee works 60 hours one week then 20 hours the second week? Are they still eligible for overtime since combined they only worked 80 hours?**

Yes, overtime eligibility is based on each workweek, not a combination of workweeks. However, payment of overtime worked occurs at the end of each monthly pay period. In this situation, the employee incurred 20 hours of overtime in week one and no overtime in week two.

**Who decides if the overtime hours worked are compensated by compensatory time or monetary payment?**

By mutual agreement, compensatory time may be offered in lieu of overtime pay. The supervisor/manager cannot force the employee to take one or the other. However, there are maximum limitations for accrued compensatory time that should be followed.

**Is there a maximum limit of compensatory time an employee may accrue?**

Yes, employees may accrue up to 240 hours of compensatory time, which equates to 480 hours of overtime worked. Once the employee reaches 240 hours, the employee is required to take additional overtime worked in the form of monetary compensation until his/her compensatory time balance has been reduced below the maximum.

For Civil Service employees, compensatory time may not be accumulated in excess of two times the number of hours in the employee's weekly work schedule of the basic full time work schedule of the employee's class, whichever is least (see Policy and Rules 6.02 C).

**How do I pay a salaried non-exempt employee overtime he/she has worked?**

If the employee chooses to be compensated for the overtime through a monetary payment instead of compensatory time, you will process a pay adjustment on the job in which the overtime was worked. On the adjustment, you will use the earning code "ADD" and in the comments you should put "FLSA OT." The employee must receive payment within 13 days of the end of the pay period in which the overtime was worked.

## Overtime Compensation

### Question

### Answer

**What happens if the pay adjustment for hours worked over 40 is not processed in 13 days?**

This may cause potential audit problems and the employee could file a justifiable complaint. If a unit expects a delay in the processing, they should notify the campus Human Resources office.

**When can an employee use the compensatory time they have accrued?**

The employee can use the compensatory time immediately after it has accrued, provided they have approval from their supervisor/manager for the time off.