Fair Labor Standards Act (FLSA) Overtime Pay Update

Webinar
November 3, 2016

UIC Human Resources
What is the Fair Labor Standards Act (FLSA)?

The Fair Labor Standards Act (FLSA) is a federal law that governs, among other things, whether employees receive overtime pay.

FLSA Status is defined as:

- **Exempt** = NOT eligible for overtime
- **Non-exempt** = eligible for overtime

Employees may be exempt from this law if they meet ALL three tests:

- Meet minimum salary level
- Pass the job duties test
- Paid on a salary basis
Fair Labor Standards Act (FLSA) Update on Rule Change

2014: Department of Labor (DOL) tasked with updating the FLSA regulations

June 2015: DOL released the proposed rule changes in June 2015 with a public comment period through September 2015

May 2016: Final rule change was approved by the US Office of Management & Budget (OMB)
Fair Labor Standards Act (FLSA) Overtime Pay Update: Review of Requirements

• New annualized salary level will be $47,476 or $913 per week (increased from $23,660 per year or $455 per week)
  • Part time employees actual salary is utilized, not annualized
    • Example: a .5 FTE with $40,000 salary is eligible for OT (based on weekly salary)
    • Note: AP’s with 9 or 10 month appointment will be subject to the $913 per week

• Effective date is Thursday, December 1, 2016
  • Monthly payroll period starts 11/16
  • Bi-weekly payroll period starts 11/20
  • Any salary adjustments to continue exemption status must be made prior to this date
Fair Labor Standards Act (FLSA) Overtime Pay Update: Implementation Issues

• Identification of employee population
  • AP: 478
  • CS: 441
  • PD: 159
  • GA: 250
• Implementation process for overtime reporting
• System changes (examples: Banner, HR Front End, Time Reporting)
• Employee/unit training
  • Use of time reporting/approval systems
• Communication
  • Individuals
  • Units/DDDH
• Cost
Fair Labor Standards Act (FLSA) Update: Who Will Be Affected

**Affected**
- Some Academic Professionals
- Some Exempt Civil Service
- Some Research Associates
- Some Post Doctoral Research Associates
- Pharmacy Residents
- Some Graduate Assistants

**Not Affected (exempted under separate provisions of the Act)**
- Faculty (including Specialized Faculty)
- Physicians
- Medical Residents and Veterinary Medical Residents
- Attorneys
- Postdoctoral Fellows
- Medical and Dentistry Residents
- TA's and RA's
Fair Labor Standards Act (FLSA) Overtime Pay Update: Implementation Issues

• Impacted employees changed to “salaried, non-exempt”
  • Salary covers regular pay for all hours worked (does not fluctuate)
  • Overtime paid at time and a half hourly rate

• AP: regular salary paid monthly; OT hours worked in excess of 40 hour week paid bi-weekly via hourly job to be added

• Civil Service: OT paid for hours worked in excess of 7.5 or 8 hour day paid bi-weekly

• Part Time Employees: Will be paid straight time for hours worked in excess of part-time FTE; overtime after 40 hours (AP) or 7.5/8 daily (CS)
Fair Labor Standards Act (FLSA) Overtime Pay Update: Options

• Increase some salaries to new threshold of $47,476
  • Unionized employees not eligible for an increase
  • Postdoc salaries encouraged to raise above FLSA salary level

• Pay overtime

<table>
<thead>
<tr>
<th>Minutes Worked</th>
<th>Time Reporting Minutes</th>
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<tbody>
<tr>
<td>0 – 7</td>
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<tr>
<td>8 – 22</td>
<td>15</td>
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<td>38 – 52</td>
<td>45</td>
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<tr>
<td>53 – 60</td>
<td>60</td>
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</tbody>
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• Restrict hours
• Rearrange job duties
• Compensatory Time (Comp Time)
Fair Labor Standards Act (FLSA) Update: Challenges

- Paradigm shift for employees and administrators
  - All work time must be reported and approved (checking email on phone at night, working on weekends, etc.)
  
- Changing Policies regarding:
  - Vacation and sick leave reporting increments
    - Time will be reported in full hour increments, no rounding
    - Report either a full day or by the hour
  - Approval to work overtime
  - Attending events/travel

- Employee morale will likely be the biggest challenge
  - Perceived level of professionalism being exempt from overtime
  - Duties still meet exemption, but now required to report time
  - Perceived (and perhaps real) loss of flexibility
Fair Labor Standards Act (FLSA) Overtime Pay Update: Employee Categories

- Teaching/Faculty (exempt)
- Athletic Coaches (exempt if teach, not recruit)
- Housing Resident Director (not exempt)
- Doctors/Residents (Medicine and Dentistry exempt, but not Pharmacy)
- Students (exempt)
- GA/RA/TA (exempt if teach or research; not if administrative)
- Postdocs
  - Teaching (exempt)
  - Research (not exempt; but NIH will raise salaries)
  - Fellows (exempt; not employed)
- Academic Administrators (AP and Civil Service)
Fair Labor Standards Act (FLSA) Overtime Pay Update: Next Steps

- **October**
  - Meetings with colleges re: employees/options
  - Compile list of employees recommended for increases
  - Transaction dates
  - Payroll/HR Feeder Systems development and testing
- **November/December**
  - November 3rd: Webinar Training
  - November 17th: Town Hall Meetings and communication to employees
  - November 16th/20th: Beginning of pay periods affected
  - December 1st: Required compliance date
  - December 14th First bi-weekly pay date in which OT could be paid
Fair Labor Standards Act (FLSA) Update on Rule Change: Information
DOL Wage and Hour Division Final Rule Website:
https://www.dol.gov/whd/overtime/final2016/

DOL Overtime Final Rule and Higher Education:

DOL Guidance for Higher Education Institutions on Paying Overtime Under the FLSA:

CUPA-HR FLSA Overtime Regulations Information:
http://www.cupahr.org/advocacy/flsa.aspx

NIH Statement on Overtime Rule and Postdoc Researchers
https://nexus.od.nih.gov/all/2016/05/18/nih-flsa-2016/