

FLSA FAQs:
2016 CHANGES TO FAIR LABOR STANDARDS ACT (FLSA)

1. WHAT ARE THE CHANGES TO THE FLSA?

Effective December 1, 2016, the changes to the FLSA proposed by the U.S. Department of Labor, Wage and Hour Division go into effect.

Under the revised regulations, an employee must be paid a salary of at least \$913/week in order to be exempt from overtime pay. This threshold is known as the “salary basis level.” The threshold is the same whether the employee is part-time or full-time. In order to be exempt from overtime, employees must also meet the “duties test”. The current salary basis level is \$455/week.

The employee’s weekly salary – not monthly or annual salary – is what is compared to the \$913 per week salary basis level.

More FLSA information is available at:

<http://hr.uw.edu/comp/overtime-for-non-academic-staff/flsa-overtime-eligibility-and-exemption/>

2. WHO WILL BE AFFECTED BY THE CHANGES?

Salaried employees who are currently OT exempt (both classified and professional staff) but who make a salary of less than \$913/week will be moved into OT eligible job codes and must track their time starting Monday, November 28, 2016.

3. WHERE CAN I FIND A CROSSWALK BETWEEN OT EXEMPT AND OT ELIGIBLE PRO STAFF AND CLASSIFIED STAFF JOB CODES?

A crosswalk list of PS OT exempt job codes with their OT eligible job codes is available on the HR Compensation Office website at <http://hr.uw.edu/comp/overtime-for-non-academic-staff/flsa-overtime-eligibility-and-exemption/> under the heading “Overtime exempt to overtime eligible pairs”.

4. WHY ARE THE CHANGES ON NOVEMBER 28 INSTEAD OF DECEMBER 1?

December 1 falls on a Thursday, but the workweek starts on Monday, November 28th. To avoid confusion that could result from having to track time for only part of a workweek, the UW is implementing the change three days early.

5. HOW WILL AFFECTED EMPLOYEES BE NOTIFIED OF THEIR OT STATUS CHANGE?

The Compensation Office has provided a template letter to major organization budget administrators to send to the employee and the immediate supervisor advising them of the change and the reason for the change, i.e., changes to the federal Fair Labor Standards Act.

The employee will receive a copy of the OPUS notification when the change has been entered into their OPUS record.

6. CURRENTLY THE MAXIMUM LEAVE ACCRUAL FOR OT EXEMPT PROSTAFF IS 24 DAYS A YEAR, BUT FOR OT ELIGIBLE IT IS 23 DAYS A YEAR. WILL PRO STAFF EMPLOYEES WITH MORE THAN 9 YEARS OF SERVICE BE AFFECTED IF THEY MOVE FROM OT EXEMPT TO OT ELIGIBLE?

A policy proposal regarding this issue is working its way through the approval process.

7. WHAT ABOUT CLASSIFIED STAFF WITH PAY RANGES INCLUDING STEPS WHICH MEET THE \$913/WEEK AND STEPS WHICH DO NOT?

For contract classified employees, the UW will work with the unions that represent employees to ensure that employees are paid correctly in compliance with the FLSA.

For classified non-union employees, the UW will follow direction from the Washington State Office of Financial Management.

8. ARE ACADEMIC STUDENT EMPLOYEES (ASEs) SUCH AS TEACHING ASSISTANTS, RESEARCH ASSISTANTS and STAFF ASSISTANTS, AFFECTED BY THE CHANGES TO THE FLSA?

Teaching Assistants who have a primary duty of teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge are not covered by the FLSA. Salaried ASEs who do not teach are nevertheless considered students with regard to FLSA and therefore not covered.

As it says on page 8, section D(ii) of the United States Department of Labor's [Guidance for Higher Education Institutions on Paying Overtime under the Fair Labor Standards Act](#)

“Generally, the Department views graduate and undergraduate students who are engaged in research under a faculty member's supervision in the course of obtaining a degree as being in an educational relationship with the school. As such, the Department would not assert an employment relationship with either the school or any grantor funding the research. Thus, in these situations, the Department will not assert that such workers are entitled to overtime. This is true even though the student may receive a stipend for performing the research.”

9. WILL EMPLOYEES ON STIPENDS BE AFFECTED BY THE FLSA REVISION?

The word stipend is used to mean different things across campus. Typically stipends are received by academic staff. Since academic staff are overseen by Academic Human Resources, questions regarding academic staff should be directed to Academic HR, Shelley Kostrinsky at 685-6138.

10. WILL JOB CODES CHANGE AUTOMATICALLY FOR EMPLOYEES WHO BECOME OVERTIME ELIGIBLE?

No, each major organization will be responsible for entering the change in OT status in the OPUS records of the impacted employees; and for sending a copy of the notification to the employee, immediate supervisor and to the appropriate central HR unit.

11. HOW SHOULD DEPARTMENTS PLAN TO HANDLE POSITIONS THAT ARE FULL-TIME MOST OF THE YEAR BUT REDUCE THEIR FTE DURING THE SUMMER?

If the plan is for the FTE to dip every year, the department should set up two appointments, one for the OT exempt job code and the other for the OT eligible job code.

The department may enter the job code change in OPUS for employees who become OT eligible due to a reduction in FTE. However, to move the employee back to the OT exempt code, the department will need to submit a title change request to the HR Compensation Office. The request will need to confirm that the employee's duties have not changed – only the FTE.

12. DOES THE DEPARTMENT NEED TO HAVE COMPENSATION OFFICE APPROVAL TO INCREASE A PART-TIME PRO STAFF EMPLOYEE'S FTE TO MEET THE NEW SALARY BASIS?

No, if the duties remain the same and the only change is the % FTE; Compensation does not need to review the FTE change. However, **some major organizations may have additional requirements**. Check with your organization's leadership, if you have questions.

Please keep in mind, however, when reducing a pro staff employee's FTE, that pro staff employees whose actual salary is less than \$913 per week (\$3,957 per month) after an FTE change must be moved into the appropriate overtime eligible job code, must track their time, and they must be paid time-and-a-half for all hours over 40 in a workweek, as well as being paid for all hours worked – including hours that exceed their scheduled FTE.

13. IF THE DEPARTMENT WANTS TO PROVIDE A RECRUITING AND RETENTION STEP INCREASE OR A CAREER ENHANCEMENT GROWTH PROGRAM (CEGP) STEP TO A CLASSIFIED EMPLOYEE TO MAINTAIN THEIR FLSA EXEMPTION; WHAT IS THE PROCESS TO DO THAT?

The department should follow the information on the HR website for the Salary Adjustment – Recruitment/Retention form and CEGP form which are available at the HR website:

<http://hr.uw.edu/forms/>

14. IF A DEPARTMENT WANTS TO PROVIDE A SALARY INCREASE TO A PROFESSIONAL STAFF EMPLOYEE TO MAINTAIN THEIR FLSA EXEMPTION, WHAT PROCESS SHOULD BE USED?

The department should follow the guidance on the HR website:

<http://www.washington.edu/admin/hr/ocpsp/prostaff/positionrvw.html>

15. WHAT PERSONNEL ACTIONS CAN A DEPARTMENT USE TO ENSURE A PRO STAFF EMPLOYEE DOES NOT BECOME OVERTIME ELIGIBLE DUE TO FALLING BELOW THE NEW SALARY BASIS LEVEL OF \$913 PER WEEK?

There are two possibilities:

1. Increase the % FTE to a combination of salary and FTE that results in an actual salary paid of at least \$913/week (\$3,957/month). This does not require HR Compensation Office approval.
2. Initiate an in-grade to increase weekly salary to at least \$913/week (\$3,957/month). This requires the office of the relevant Dean or Vice President, or their designee, as well as the approval of the HR Compensation Office.

Something to consider:

Will raising one employee impact others in the department or school doing the same work?

16. WILL A PRO STAFF TEMPORARY PAY INCREASE (TPI) OR ADMINISTRATIVE SUPPLEMENT (ADS) COUNT AS SALARY TOWARD THE \$913/WEEK SALARY BASIS LEVEL?

No. A Temporary Pay Increase or Administrative Supplement is by definition not part of a salary, and only salary is counted toward the salary basis level.

17. WHAT IS THE CORRECT FORM TO USE FOR TIME REPORTING FOR EMPLOYEES
MOVING TO OT ELIGIBLE?

Departments have a variety of time reporting forms. The employee would report their time on the form that is currently used by their department.

Contact the Payroll Office (543-9202) for specific time reporting questions or other related payroll issues.

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