

FAQs:

2019-20 IMPACT TO UW FROM CHANGES TO FAIR LABOR STANDARDS ACT (FLSA)

1. WHAT IS THE FLSA?

The Fair Labor Standards Act (FLSA) is the federal law that governs eligibility for overtime pay. It requires that workers who are not exempt from overtime must receive a overtime pay of 1.5 times the employee's regular pay rate for all hours worked over 40 hours in a seven-day workweek. The UW calls positions that are covered by FLSA overtime regulations "overtime eligible." All hourly paid temporary and student workers are, by definition, overtime eligible. Only positions that meet certain narrowly defined criteria are exempt from the FLSA's overtime requirements. Compensation is responsible for determining the overtime status for all staff positions.

2. WHAT ARE THE CHANGES TO THE FLSA?

Effective January 1, 2020, the changes to the FLSA proposed by the U.S. Department of Labor, Wage and Hour Division go into effect, increasing the minimum weekly salary threshold at or above which an employee is to be considered overtime exempt if they also meet the duties tests.

Under the revised regulations, an employee must be paid a salary, and the salary must be at least \$684 per week in order to be exempt from overtime pay. This is an increase from the current salary basis level of \$455 per week. This threshold is known as the "salary basis level." The threshold is the same whether the employee is part-time or full-time, meaning a part-time employee also must meet the \$684 threshold. That is, the salary basis level is not pro-rated for part-time employees meaning a part-time employee also must meet the \$684 threshold. In order to be exempt from overtime, employees must also meet one of the "duties tests".

The federal regulation is expressed in terms of weekly salary, not monthly or annual. At the University of Washington, salaries are expressed in monthly rates, paid on a twice a month payroll schedule. Determination of whether an employee meets the federal, weekly salary threshold is made by converting the UW salary to a weekly rate and comparing this to the federal weekly threshold. Sometimes in our communications we share the monthly or annualized equivalent of the weekly threshold to help employees relate it to the UW's pay. Ultimately, however, the federal threshold is a weekly rate.

More FLSA information is available on the HR Compensation Office website at: [FLSA overtime eligibility and exemption](#).

3. WHO WILL BE AFFECTED BY THE CHANGES?

Salaried classified and professional staff employees who are currently OT exempt but whose actual pay is less than \$684 per week will be moved into OT eligible job codes and must track their time starting Monday, December 30, 2019.

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

A walk across list of OT exempt job codes with their OT eligible job codes is available on the [HR Compensation Office website](#) under the heading “Overtime exempt to overtime eligible pairs”.

5. WHY ARE THE CHANGES EFFECTIVE ON DECEMBER 30 INSTEAD OF JANUARY 1?

January 1 falls on a Wednesday, but the FLSA workweek starts on Monday, December 30. To accurately account for overtime in a workweek that includes the effective date of the law, the UW is implementing the change at the beginning of the workweek.

6. 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 affected employees and their immediate supervisors advising them of the change and the reason for the change.

7. WILL OT EXEMPT CLASSIFIED EMPLOYEES WHO BECOME OT ELIGIBLE BECAUSE THEIR STEP IS BELOW \$684/WEEK BE CHANGED TO AN OT EXEMPT CODE IF THEY INCREMENT TO A STEP THAT IS ABOVE \$684/WEEK?

Yes, the Compensation office will regularly audit for this scenario and request movement back to OT exempt job codes when an employee increments to a step above the salary basis threshold. Part of this audit will include a check to insure that the duties still meet the duties tests.

8. WILL THESE FLSA REVISIONS APPLY TO ACADEMIC STUDENT EMPLOYEES (ASEs)?

Per guidance from the U.S. Department of Labor, these revisions do not apply to ASEs because of their educational relationship with the UW.

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

Yes, UWHR will partner with the ISC to enter the change in OT status in the Workday records of the impacted employees.

10. 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 be reduced every summer, resulting in an actual salary that is below the salary basis threshold, the department will need to submit a position review, title change only, specifying that the duties have remained the same, but the FTE has been reduced, and the HR Compensation Office will submit an edit position request to the ISC to move the employee into an overtime eligible job code. While in the overtime eligible job code, the employee will need to track all hours worked in Workday time tracking (or KRONOS, if they are in the medical centers).

Similarly, when the department is ready for the employee's FTE to go back up, they need to submit a position review, title change only, specifying that the duties have remained the same, but the FTE has been increased, resulting in an actual salary at or above the salary basis threshold, and the HR Compensation Office will submit an edit position request to the ISC to move the employee back into an overtime exempt job code. Once that is completed the employee can stop tracking all hours worked.

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

Not if they do it prior to January 1, 2020. 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.

12. WHAT ACTIONS CAN A DEPARTMENT USE TO ENSURE A PROSTAFF EMPLOYEE DOES NOT BECOME OVERTIME ELIGIBLE DUE TO FALLING BELOW THE NEW SALARY BASIS LEVEL OF \$684 PER WEEK?

There are two possibilities:

1. If the employee is less than 100% FTE, the department may opt to increase the % FTE to a combination of salary and FTE that results in an actual salary paid of at least \$684/week (\$2,964/month). This does not require HR Compensation Office approval, but the employee should, of course, be consulted. Some employees have personal reasons not to work full-time.
2. Initiate an in-grade for the reason of market/retention to increase weekly salary to at least \$684/week (\$2,964/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.

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

The department should follow the guidance on the HR Compensation Office website at: [Position and salary review](#).

14. WILL A PROSTAFF TEMPORARY PAY INCREASE (TPI) OR ADMINISTRATIVE SUPPLEMENT (ADS) COUNT AS SALARY TOWARD THE \$684/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.

15. WHAT ACTIONS CAN A DEPARTMENT USE TO ENSURE A CLASSIFIED EMPLOYEE DOES NOT BECOME OVERTIME ELIGIBLE DUE TO FALLING BELOW THE NEW SALARY BASIS LEVEL OF \$684 PER WEEK?

There are three possibilities:

1. If the employee is less than 100% FTE, the department may opt to increase the % FTE to a combination of salary and FTE that results in an actual salary paid of at least \$684/week (\$2,964/month). This does not require HR Compensation Office approval, but the employee should, of course, be consulted. Some employees have personal reasons not to work full-time. Please note, in addition, that FTE increases will trigger a layoff/rehire option for contract classified employees represented by SEIU 925 and WFSE.
2. If the employee is not yet at the top automatic step of the range, the department may use the recruiting/retention process to place the employee on a higher step that meets or exceeds the new salary basis threshold. Departments are urged to consider internal equity when deciding whether to request recruiting/retention step increases related to the FLSA change.
3. If an employee is eligible for a CEGP step and the department is supportive, the department may submit a request for move the employee to a CEGP step.

16. 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 guidance for a [Recruitment / Retention Adjustment or CEGP step](#) which are available on the HR Compensation Office website.

17. WILL A CLASSIFIED TEMPORARY SALARY INCREASE (TSI) COUNT AS SALARY TOWARD THE \$684/WEEK SALARY BASIS LEVEL?

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

18. HOW WILL EMPLOYEES MOVING TO OT ELIGIBLE TRACK THEIR TIME?

Campus employees will be in Workday time tracking; medical centers employees will have their time tracked through KRONOS.