

FAQs:

2020-21 IMPACT TO UW FROM CHANGES TO WASHINGTON STATE MINIMUM WAGE ACT

1. WHAT IS THE WASHINGTON STATE MINIMUM WAGE ACT (WMWA)?

The Washington State Minimum Wage Act (WMWA) is the state law governing minimum wage, overtime and certain other aspects of pay for employees who work in Washington State. Outreach and enforcement for the WMWA are administered by the Washington State Department of Labor & Industries (L&I). In 2019 L&I updated the employment rules that determine which workers in Washington are required by law to be paid at least minimum wage, earn overtime pay, and receive paid sick leave and other protections under WMWA. Under the approved changes, the minimum pay a salaried worker must receive to be considered exempt will increase incrementally to 2.5 times the state minimum wage by 2028.

Workers who are not exempt from overtime must receive 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 overtime regulations "non-exempt" or "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 L&I's overtime requirements. At the UW, the HR Compensation Office is responsible for determining the overtime status for all staff positions.

2. HOW DOES THE WMWA RELATE TO THE FLSA?

The Fair Labor Standards Act (FLSA) and Washington Minimum Wage Act (WMWA) establish minimum standards that may be exceeded, but cannot be waived or reduced. The FLSA is federal law; the WMWA is state law. Employers must comply with any federal, state or municipal laws, regulations or ordinances, or collective bargaining agreements or employer implemented policies that provide greater benefits than those established by the FLSA. When state laws differ from the federal FLSA, an employer must comply with the standard most generous to employees.

Since the new, higher state salary threshold for overtime exemption under WMWA will be more generous than the FLSA salary threshold as of January 1, 2021, the WMWA threshold will be applied.

3. WHAT ARE THE CHANGES TO THE WMWA?

Effective January 1, 2021, the minimum actual gross salary a position can be paid and still remain overtime exempt will increase from \$675 per week to \$958.38 per week (\$49,836 per year or \$4,153 per month). As a result, professional staff, contract covered staff, and classified non-union overtime positions that do not meet the new, higher weekly salary threshold must be changed to overtime eligible. This is still particularly true of part-time positions, since the \$4,153 per month threshold applies regardless of whether a position is part-time or full-time. For example, a professional staff employee with a full-time equivalent salary of \$90,000 who works half time would have an actual gross monthly salary of \$3,750, below \$4,153, and would need to be in an overtime eligible job code.

The January 1, 2021 change mentioned above is one of a series of changes in the overtime threshold for employees who work in Washington State. These changes are required by a change in Washington State overtime law that sets salary thresholds at the state level that will increase annually until January 1,

2028, when the state threshold reaches 2.5 times the Washington State minimum wage. From that point on, the state threshold will increase annually based on inflation by the same percentage that the Washington State minimum wage does. The first threshold change occurred in mid-2020, but resulted in a threshold of \$675 per week, which is less than the federal threshold of \$684 per week (\$35,568 in annual terms or \$2,964 per month), during 2020 employers in Washington were obligated to follow the higher, federal threshold. Since the state threshold that takes effect January 1, 2021 is higher than the federal, employers in Washington state will need to follow the higher state threshold. This approach follows the principle of law that in the event of a conflict between state and federal law, the law more protective of the employee – i.e., more favorable to the employee – will apply. In order to be exempt from overtime, employees must also meet one of the “duties tests”.

The state 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 state, weekly salary threshold is made by converting the UW salary to a weekly rate (monthly x 12 / 52) and comparing this to the state 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 state threshold is a weekly rate.

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

4. 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 \$958.38 per week will be moved into OT eligible job codes and must track their time starting Monday, December 28, 2020.

5. 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 at: [FLSA and WMWA overtime eligibility and exemption](#) under the Related Documents section on the far right, labeled “Walk-across document”.

6. WHY ARE THE CHANGES EFFECTIVE ON DECEMBER 28 INSTEAD OF JANUARY 1?

January 1 falls on a Friday, but the workweek starts on Monday, December 28. 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.

7. 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.

8. WILL OT EXEMPT CLASSIFIED EMPLOYEES WHO BECOME OT ELIGIBLE BECAUSE THEIR STEP IS BELOW \$958.38/WEEK BE CHANGED TO AN OT EXEMPT CODE IF THEY INCREMENT TO A STEP THAT IS ABOVE \$958.38/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 threshold. Part of this audit will include a check that the department affirms that the employee's duties have not substantially changed and that the duties of the position still meet the duties tests.

9. WILL THESE 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.

10. DO DEPARTMENTS NEED TO TAKE ACTION TO CHANGE JOB CODES FOR THOSE EMPLOYEES WHO BECOME OVERTIME ELIGIBLE, OR WILL JOB CODES BE CHANGED CENTRALLY FOR EMPLOYEES WHO BECOME OVERTIME ELIGIBLE?

UWHR will partner with the ISC to effect job profile changes centrally. Employees will be moved from their overtime exempt job code and job profile to an overtime eligible job code and job profile.

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 be reduced every summer, resulting in an actual salary that is below the salary 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 in 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, using the "FLSA Salary-Basis OT Exemption Change Request" form (which can be found on the [HR forms webpage](#)) instead of a PSPD or questionnaire. The department should affirm that the duties have remained the same, but the FTE has been increased, resulting in an actual salary at or above the salary 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. Of course if the duties have significantly changed, a full position review would need to be submitted.

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

Not if they do it prior to January 1, 2021. 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. Also, departmental contacts have been requested to inform HR Compensation of their plans if they intend to increase the FTE of an exempt prostaff employee so that the employee remains OT exempt when the

salary threshold goes up. This will let HR Compensation know to remove the names of such employees from the list that will be sent to the ISC to change to OT eligible jobs.

13. WHAT ACTIONS CAN A DEPARTMENT USE TO ENSURE A PROSTAFF EMPLOYEE DOES NOT BECOME OVERTIME ELIGIBLE DUE TO FALLING BELOW THE NEW SALARY THRESHOLD OF \$4,153 PER MONTH?

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 \$958.38/week (\$4,153/month). This requires typical departmental approvals but does not require HR Compensation Office approval. The employee should, of course, be consulted. Some employees have personal reasons not to work full-time.
2. Initiate an in-grade to increase weekly salary to at least \$958.38/week (\$4,153/month). The employee must meet one of the in-grade eligibility reasons: the justification cannot be to simply increase to the salary threshold. In-grade requests for this require the same department approvals/sign-offs as in-grades at any other time, i.e., the relevant Dean or Vice President, or their designee.

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

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

15. WILL A PROSTAFF TEMPORARY PAY INCREASE (TPI) OR ADMINISTRATIVE SUPPLEMENT (ADS) COUNT AS SALARY TOWARD THE \$4,153 PER MONTH SALARY THRESHOLD?

No. A Temporary Pay Increase or Administrative Supplement is by definition not part of the employee's regular salary, and only salary is counted toward the salary threshold.

16. WHAT ACTIONS CAN A DEPARTMENT USE TO ENSURE A CLASSIFIED EMPLOYEE DOES NOT BECOME OVERTIME ELIGIBLE DUE TO FALLING BELOW THE NEW SALARY THRESHOLD OF \$4,153 PER MONTH?

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 \$4,153/month. This requires typical departmental approvals but 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 threshold. Departments are urged to consider internal equity when deciding whether to request recruiting/retention step increases related to the salary threshold 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.

17. 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 OVERTIME 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.

18. WILL A CLASSIFIED TEMPORARY SALARY INCREASE (TSI) COUNT AS SALARY TOWARD THE \$4,153 PER MONTH SALARY THRESHOLD?

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

19. 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.