Fair Labor Standards Act (FLSA)

Department of Labor - Wage and Hour Legislation

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Fair Labor Standards Act Training Objectives

- What is the Fair Labor Standards Act (FLSA)?
- FLSA Definitions
- Changes for positions from Exempt to Non-Exempt
  - What have we been working in the Office of Human Resources
  - Position FLSA exemption status was determined by conducting compliance testing of position
  - Next steps
- Employee and Supervisor Responsibilities
- Non-Exempt Electronic Communications
- Ways to Manage Hours
- Compensable Work Time Hours Examples
- FAQ
- Define FLSA Salary Test and Duties Test
- Resources Contacts
- Questions
- Planning for the Future – FLSA Training subjects: Travel time, Deductions, Supervisor, Overtime/Comp time form
Fair Labor Standards Act Changes

Fair Labor Standards Acts (FLSA)

- Fair Labor Standards Acts of 1938 - effective since 1938

- Last change - 2004
Fair Labor Standards Act Overview

Enforced by

- DOL Determinations, Court Decisions, Congressional Actions
- DOL Hires 100 New Auditors
- How does the law apply and to my job: Public sector and Comp Time?

Basic Coverages

- Minimum Wage $7.25
- Florida Minimum Wage – January 1, 2018 = $8.25
- Who is Non-Exempt? – Track of hours
- Who is Exempt? – No tracking of hours
- Work Week – 7 Consecutive Work Days – not carried over to next week
- Hours Worked – Compensable Hours
- Position job description
- Overtime – 1.0 x or 1.5
- Comp Time – Public Sector
- On-Call
Fair Labor Standards Act Definitions

Salary Schedule

- **Exempt**: Employees are individuals who are exempt from the overtime provisions of the FLSA because they are classified as an executive, professional or administrative employee and meet the specific criteria developed by the FLSA for exemption. Exempt employees are paid on a salary basis.

- **Non-Exempt**: Employees are covered under the overtime provisions of the FLSA. Such employees are entitled to receive overtime for all hours worked beyond 40 in a workweek. Alternatively, provisions for public employers allow for hours in excess of 40 per week to be paid in the form of compensatory time which must be used within 30 days of accumulation. Refer to section B-23 for non-exempt overtime payment calculations.

- **Work Week**: – 7 Consecutive Work Days: The College’s standard workweek for pay purposes begins Saturday at midnight and ends at 11:59 p.m. the following Friday.

- **Overtime**: Overtime payment is due for non-exempt employees who work more than 40 hours in a workweek. The department administrator or designee must approve all overtime in advance.

- **Comp Time**: Provisions for public employers allow for hours in excess of 40 per week to be paid in the form of compensatory time which must be used within 30 days of accumulation.

- **Note**: Comp Time for for working during College Emergency Closing, Holiday Closing or On-Call Coverage: See salary schedule for details.
Fair Labor Standards Act Definitions

Salary Schedule

- **On-Call:**

  Regular non-exempt and exempt employees who are on-call outside of normal business hours will receive a minimum of 3 hours of pay if they are called to work for any amount of time during on-call duty. This includes responding to issues remotely while on-call. The 3-hour minimum is being reviewed due to technology making it easier to accomplish duties remotely. Currently, the 3 hours covers driving time.

  Regular full-time and part-time non-exempt employees who are on-call outside of normal business hours receive straight time for additional hours worked during on-call service up to 40 hours in a workweek.

  Regular full-time and part-time non-exempt employees who are on-call outside of normal business hours and are working over 40 hours in a workweek will receive straight time and one and a half times their straight hourly pay per hour worked over 40 hours in a workweek.

  Regular full-time and part-time exempt employees required to work in an on-call capacity greater than 3 hours outside of normal business hours will receive straight time compensatory time on an hour for hour basis.
Employee and Supervisor Responsibilities

- Must be Advocate of FLSA: carry a role in Compliance
- New web based online timesheet
- Overtime form
- Employee/Supervisor must have discussions of hours worked – all overtime must be pre-approved
  - If not pre-approved and continues and overtime is continues again with out pre-approved will become a disciplinary issue
- If hours are worked college must pay or comp time
- Comp time pay outs: must be used within 30 days of accumulation or will be paid out on the next pay period
- Manage hours
- Flex Time
- Compensable Hours
- What is productive time vs. non-productive time?
- Overtime Hours
- Work week
Non-Exempt Employee Electronic Communications

- Work life balance – Electronic devices

- Use of Electronic Devices
  - Cell phone, text messages, internet and email via phone, tablet, laptop, desk top and any other devices

- Counts as work time
  - For example: Before work, At Lunch, After work, Weekends, Holidays, and Vacations
  - All work must be authorized
  - All time spent using the electronic devise will be considered work hours
  - The time is compensable and will count toward overtime eligibility by law
Ways to Manage Hours

- What is our Workweek?
  - The College’s standard workweek for pay purposes begins Saturday at midnight and ends at 11:59 p.m. the following Friday
  - 40 hours for the 7 consecutive days

- May have to move job duties around

- May have to change shifts

- Flex Time – Work Week – 7 Consecutive Work Days – not carried over to next week

- Payment of overtime

- Comp time – Earned and Used – FLSA law cap is 240 hours maximum – must pay out per Salary Schedule – compensatory time must be used within 30 days accumulation or will be paid out next pay period

- Overtime form – employee and supervisor

- Reminder do not have Exempt staff track hours because that can risk the exempt status

- Future training: travel time – very complex and needs to be addressed for each unique situation
Compensable Work Time Hours Examples

- All hours worked beyond 40 hours during your defined workweek must be recorded on your timesheet. This will include such examples: lunch hour, weekends, vacation, before/after business hours that would be in the form of business phone calls, emails and text messages.

- Hours before shift

- Work at through lunch

- Getting caught up

- Reviewing work at home

- Reading and responding to business emails

- Responding to business phone calls

- Getting reading to presentations
Fair Labor Standards Act FAQ

- Online link:  [http://www.palmbeachstate.edu/hr/classification.aspx](http://www.palmbeachstate.edu/hr/classification.aspx)
Fair Labor Standards Act Compliance Tests

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<tr>
<th>Executive</th>
<th>Administrative</th>
<th>Professional</th>
<th>Computer</th>
<th>Outside Sales</th>
<th>Highly Compensated</th>
</tr>
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- not by Pay Grade
- not by Job Title

Salary Test

General Position Info

Duties Test
FLSA Administrative Test Exemption Decision Chart

Does the employee receive a weekly salary of at least $455 or is the employee guaranteed that amount weekly on a fee basis?

NO

Non-Exempt

YES

Does the employee have primary duties involving the performance of office or non manual work directly related to the management or general business operations of the employer or the employer's customers?

NO

Non-Exempt

YES

Does the employee have primary duties that includes the exercise of discretion and independent judgment with respect to matters of significance?

NO

Non-Exempt

YES

Exempt
Fair Labor Standards Act Resources and Contact

- Online resource: [https://www.dol.gov/whd/flsa/index.htm](https://www.dol.gov/whd/flsa/index.htm)

- Contact: Luane A. Shull, CCP – Classification and Compensation Manager [shulll@palmbeachstate.edu](mailto:shulll@palmbeachstate.edu) / 561-868-4002
Questions