Frequently Asked Questions about the 2016 Changes to the Fair Labor Standards Act

1. **What is the Fair Labor Standards Act?**

   The Fair Labor Standards Act (FLSA) is the United States’ federal wage and hour law, administered by the US Department of Labor (DOL). Among other things, it establishes the federal minimum wage and sets overtime pay requirements for employees in the private and government sectors.

   Under the FLSA, some employees are exempt from the wage and overtime provisions of the law and some are nonexempt. The FLSA requires that all nonexempt workers be paid overtime (usually one-and-one-half times their regular rate of pay) for all hours worked over 40 in a workweek.

2. **What is the difference between exempt and nonexempt employees under the FLSA?**

   Exempt employees are considered “salaried” and do not earn any overtime pay for working over 40 hours in a workweek. They must also perform certain types of job duties to qualify as exempt. At FSU, most Administrative and Professional (A&P), Executive Service (AEX), and Faculty positions are FLSA exempt.

   Nonexempt employees are considered “wage earning” and must be paid overtime for all hours worked in excess of 40 in a workweek (Fri – Thurs). At FSU, most University Support Personnel System (USPS) and Other Personal Staff (OPS) positions are FLSA nonexempt.

3. **What are the 2016 changes to the FLSA?**

   On May 18, 2016, the Department of Labor (DOL) released changes to the FLSA that increased the minimum salary required for an employee to be exempt from overtime pay under the “White Collar Exemptions” for executive, administrative, and professional employees, from $23,660 ($455 per week) to $47,476 ($913 per week).
Beginning December 1, 2016, an employee must meet the following criteria to be classified as FLSA exempt under the “white collar exemption”:

- Perform primarily executive, administrative, or professional duties as defined under DOL regulations; AND
- Earn at least $47,476 annually ($913 per week), paid on a salary basis.*

The Department of Labor will automatically update the minimum salary every three years to keep it current.

*A few types of employees may be classified as exempt without meeting the salary minimum, for example teachers, lawyers, and doctors.

4. When will the FLSA changes go into effect?

The final rule changes were released on May 18, 2016. They don’t go into effect until December 1, 2016.

5. Who is affected?

If you are currently classified as an exempt employee, you may be subject to the new minimum salary threshold, which will be increasing with this legislation. If you are currently classified as a nonexempt employee, you will not be affected.

6. Are part-time employees affected?

Part-time employees will be affected if they are currently classified as exempt, but make less than the new salary threshold, $47,476 annually ($913 per week), while working part time.

7. Are faculty members impacted?

Teachers are FLSA exempt, regardless of their annual/weekly salary, if their “primary duty is teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge.” See DOL Fact Sheet #17D. Most faculty positions, including all tenure stream positions and all FSUS teachers, qualify as FLSA exempt under this “teaching exemption” and will not be affected by the changes. Non-teaching faculty, such as curators, university librarians, and research faculty will be impacted by these changes.

8. How is FSU planning to handle the changes?

The Office of Human Resources in collaboration with the Office of General Counsel, and Central University Administration, is working to develop an approach to these federal regulatory changes that complies with the law, while having the least negative impact on FSU employees.

Human Resources is currently analyzing all university positions, evaluating impacted job codes, and soliciting feedback from departments to determine the best approach to compliance. At this time, the University anticipates a multifaceted approach that includes the following:

- A&P employees are the most likely to experience changes due to the FLSA regulation changes.
Most exempt A&P employees making less than the new FLSA salary threshold can expect to be reclassified as FLSA nonexempt. Also some exempt A&P employees making more than the new FLSA salary threshold may be reclassified to nonexempt, if their job code as a whole is reclassified. If an A&P employee is reclassified to nonexempt, they will become overtime eligible (pre-approval of any overtime hours will be required) and will have new timekeeping procedures. The reclassified employee’s pay, benefits, and leave accrual rates will not change.

It is possible that a few exempt A&P employees who are making less than the new salary minimum may receive a salary increase and remain exempt. The University is still reviewing this option to determine which A&P positions, if any, would be appropriate for salary increases based on budgetary constraints, job duties, and market data on prevailing salaries.

- Most USPS employees are nonexempt and will experience no changes as a result of the new FLSA regulations. A small number of currently exempt USPS positions may be reclassified as USPS nonexempt; employees in these reclassified positions would become overtime eligible (pre-approval of any overtime hours will be required) and will have new timekeeping procedures. A reclassified employee’s pay, benefits, and leave accrual rates will not change.

- OPS employees who are currently FLSA nonexempt will experience no changes as a result of the new FLSA regulations. OPS employees who are currently exempt and make less than the new salary minimum are being evaluated and may be moved to nonexempt status. Any OPS exempt employee moved to nonexempt status will become overtime eligible (pre-approval of any overtime hours will be required) and will have new timekeeping procedures.

- Part-time employees of all types may be reclassified to FLSA nonexempt if their weekly pay while part-time is under the new FLSA salary minimum for exempt employees. While they are nonexempt, they will be required to track their hours, but their pay rates, any benefits, and any leave accrual rates will not be impacted.

- Many faculty members will be unaffected by the FLSA changes because they meet the FLSA’s “teaching exemption.” Some specialized faculty members who do not teach may be impacted (including those working part-time). Impacted faculty members will either: remain exempt and receive pay increases to meet the new minimum, or be reclassified to nonexempt. This determination will be made after evaluation of impacted faculty job codes and all relevant factors. Any specialized faculty reclassified to nonexempt will become overtime eligible (pre-approval of any overtime hours will be required) and will have new timekeeping procedures.

No changes made to any employee’s classification will impact their in-unit status for the University’s collective bargaining units.

9. Can I or my department opt out of FLSA changes if we want to handle things differently?

No. These changes are driven by changes to federal law that will apply to employees across the United States, not by FSU’s policy-makers or individual departments. The University has and will
continue to consult with departments across campus on factors impacting FSU’s response to these regulatory changes. However, guidelines will be established centrally to ensure the University’s response is consistent, non-discriminatory, sustainable, and legally compliant.

10. What does all this mean for me?
In some cases, employee classifications may change from FLSA exempt to non-exempt. If you are in a position that is re-classified from exempt to nonexempt, you will become eligible to earn overtime wages if you work over 40 hours during a given week. This may change the way you report your hours worked, to document the time you are eligible for overtime earnings.

11. Will all currently exempt employees under the new salary threshold receive a pay increase to remain exempt?
No, there is limited funding available to raise salaries to the expected new salary threshold. The University is already proactively looking at salaries and specific job codes. While some adjustments may occur, they will be based on many factors so employees should not automatically expect a salary increase due to the legislation.

12. Are currently nonexempt employees affected?
No, employees currently in nonexempt positions will not be affected.

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