

Federal Changes to the Fair Labor Standards Act (FLSA)

On September 24, 2019, the Department of Labor (DOL) issued new rules (Final Rule: Overtime) that increased the salary level under which nonexempt workers receive the benefit of Fair Labor Standards Act (FLSA) overtime protections. These new rules went into effect January 1, 2020. The Department of Labor has provided a website with additional details relating to the change, as well as frequently asked questions and fact sheets relating to the Fair Labor Standards Act.

Department of Labor Overtime Pay Information

UVU affirms its commitment to comply with the Fair Labor Standards Act. We will continue to keep you apprised of any additional developments to the FLSA.

What is the FLSA

The Fair Labor Standards Act (FLSA) requires that most workers receive a minimum overtime pay of 1.5 times the employee's regular pay rate for all hours worked over 40 hours in a seven-day workweek. UVU calls positions that are covered by FLSA overtime regulations "nonexempt" and/or "overtime eligible." All part-time staff, temporary staff, and student workers are, by definition, overtime eligible. The U.S. Department of Labor (DOL) has announced changes to the FLSA that will impact the criteria used to determine eligibility for overtime. Effective January 1, 2020, the salary threshold used to determine eligibility for overtime was increased from \$23,660 per year (\$455 per week) to \$35,568 per year (\$684 per week) ("Final Rule"). Only positions that meet certain narrowly defined criteria (including duties test and appropriate salary test) are exempt from the FLSA's overtime requirements. UVU's People & Culture Compensation Office, in consultation with UVU's Office of General Counsel as needed, is responsible for determining the FLSA classification (overtime status) for all UVU paid positions.

Why Does it Matter?

Generally speaking, the intent of the federal government and the changes to the Department of Labor's rules is to extend overtime protections to more U.S. workers.

Exemptions

Under the Final Rule announced in September 2019 to update the FLSA regulations, a position must satisfy three criteria to qualify as exempt from overtime:

1. The incumbent in the position must be paid on a salaried basis (the "salary basis test")
2. The salary level must be at least \$684/week, or \$35,568 annually (the minimum salary requirement or "salary level test")
3. The employee's job duties must primarily involve executive, administrative, or professional duties as defined by the DOL regulations (the "duties test").

Keep in Mind

For those positions that have changed from exempt to overtime eligible (nonexempt), keep in mind these four things:

1. All changes relate to the method and manner of pay and recording keeping, not the level or professional nature of the work that is being performed.
2. Pay will remain on a salary basis and overtime eligible employees will be given compensatory ("comp") time or paid overtime for each hour worked above 40 in a workweek.
3. Overtime eligible employees will be responsible for timekeeping in the T.I.M.S. tracking system. 4. All overtime hours must be approved in advance by the supervisor.

Compensatory Time

While federal law allows public employees to accrue up to 240 hours of comp time, UVU has established a limit of 120 hours of accumulated comp time. Accrued comp time may be used in the same manner as vacation leave. Any hours in excess of 120 hours will be paid by the employee's department as overtime. This limit reduces UVU's liability at employee termination and/or at the conclusion of grants and contracts. UVU will also continue its practice of paying out accumulated comp time when an employee changes positions within the University.

ADDITIONAL RESOURCES

- > Adjunct Faculty Teaching by Salaried Exempt Staff and Executive Employees (PDF)
- > FLSA Higher Education Exemption Tests (PDF)

Department of Labor Wage and Hour Links

- > Overtime Pay DOL Topic Page
- > DOL Fact Sheet #22: Hours Worked Under the FLSA (PDF)
- > Wage and Hour Division - Final Rule: Overtime
- > Overtime Final Rule and Higher Education (PDF)

For any additional questions, please contact UVU's Compensation Team:

- > Amy Smith, Compensation Analyst ext.8241
- > Kelly Wixom, Compensation Analyst ext.6893
- > Marni Fisher, Sr Director Benefits and Compensation ext.8932
- > Anthony Garcia, Compensation Assistant ext.5627

QUESTIONS? ASK WILSON

People & Culture | (801) 863-8207 | Building HF

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