FLSA OVERTIME RULE DEFINITIONS AND TERMINOLOGY 2016

Fair Labor and Standards Act Overtime Rule
Issued May 18, 2016; Effective at all locations Nov. 27, 2016

What is the Fair Labor Standards Act (FLSA)?

The FLSA is a federal law that establishes minimum wage, overtime pay, recordkeeping and youth employment standards for employees in the private sector and in Federal, State and local governments. The FLSA is not new – it was first approved in 1938.

- For more information: U.S. Department of Labor Wage and Hour Division
- FLSA Overtime Rule 2016 Frequently Asked Questions

FLSA provisions are administered by the U.S. Department of Labor’s Wage and Hour Division, which announced a revised rule regarding overtime compensation - commonly referred to as compensatory time - on May 18, 2016. The rule applies to all businesses and organizations, including universities, in the United States.

- The rule increases the overtime exemption salary threshold from $23,660 to $47,476, and is associated to job ranges, not individual salaries. Individuals in jobs with salary ranges starting below the new minimum will be impacted.
- Certain faculty, researchers, teachers and coaches are not impacted; see Page 5 of the FLSA guide for higher education (pdf).
- The federal rule is effective Dec. 1, 2016. All System components will implement the rule Nov. 27, 2016, the first day of the payroll work week to include Dec. 1.

Impact of the FLSA Rule

- The rule will impact employee eligibility for FLSA compensatory time. Some employees who are currently exempt from FLSA compensatory time will become non-exempt. Exempt employees who have been earning State compensatory time (1.0) will continue to earn time at that rate.
- System campuses provide compensatory time off, with supervisor permission, rather than cash payment, with some exceptions.
- Note: the rule does not affect campus or component policies regarding office operations, schedules and working hours, overtime and compensatory time.

Definitions and Terminology
Here are standard definitions used to identify employee categories and workplace activities.

Salary and Threshold

- **Threshold** - The FLSA rule states that employees who earn less than $47,476 annual base salary are non-exempt and must receive compensation for hours worked beyond 40 in a work week. That earning level is referred to as the *overtime threshold*.
- **Compensatory time** - System universities provides compensatory time off, with supervisor permission, rather than cash payment, in most circumstances.
FLSA Exempt and Non-Exempt

- **Exempt** – Exempt employees do not receive FLSA overtime compensation for hours worked beyond 40 per week. Exempt employees who have been earning State compensatory time (1.0 comp time) will continue to earn time at that rate.

- **Non-exempt** – Employees are eligible for 1.5 hours FLSA compensatory time for each hour worked past 40 hours per week. Paid leave, such as vacation and paid sick leave, and holidays, do not count when determining FLSA overtime hours.

- **Exceptions** – There are exceptions to the overtime rule, most related to job duties and descriptions, and for certain jobs in higher education, including coaches, researchers, some student assistants and highly-paid positions.

- **FLSA Non-exempt employees** are those who earn less than the threshold salary of $47,476 and/or do not fall under the executive, professional or administrative exemptions to the overtime rules of the FLSA.

- **FLSA Exempt employees** are those who earn the threshold salary of $47,476 or more and do fall under the executive, professional or administrative exemptions to the overtime rules of the FLSA.

- **FLSA Exceptions in higher education** include, but are not limited to, coaches, teachers, certain faculty and others.

State of Texas Compensatory Time

- **State Compensatory Time** is time computed at an equivalent rate, when a non-exempt employee did not physically work more than 40 hours, but the total hours in a work week exceeded 40. Example: employee works 35 hours + 8 hours holiday = 43 total hours. Employee earns 3 hours compensatory time.

- **State Exempt Compensatory Time** is time computed at an equivalent rate (1 hour for 1 hour) for any hours beyond 40 hours a week for exempt employees. Exempt employees may not be paid for any unused equivalent time. This is referred to as 1.0 Comp time.

- FLSA Overtime is overtime computed at a rate of 1.5 (one and one-half times) for non-exempt employees for any hours in excess of 40 hours per week. Exempt employees may not accrue FLSA compensatory time. (1.5 comp time.) Exempt employees who have been earning State compensatory time (1.0 comp time) will continue to earn time at that rate.

- **Overtime** is time worked beyond 40 hours in a work week. (Working more than eight (8) hours in a day is not overtime.) System universities refer to overtime as “compensatory” or “comp time” because employees may earn compensatory time, rather than payment.

- **The work week** at campuses and offices begins at 12:01 a.m. Sunday and ends at 12 midnight Saturday. A week is a fixed and recurring period of seven consecutive 24-hour days.

- **A work day** is the 24-hour period beginning at 12:01 a.m. and ending at 12 midnight. Standard business hours for System universities and offices are from 8 a.m. to 5 p.m. Monday through Friday.

Budget Impact and Terminology

- A **job description, grade and salary** is established and budgeted after thoughtful review by managers and Total Rewards compensation experts, market reviews and campus administrators. Any change in an employee’s exempt or non-exempt status will be carefully considered by managers and administrators.
• A job’s **minimum salary** is determined by its grade, which affects its eligibility for compensatory time. *For example, a job with a minimum salary less than $47,476, may be eligible for compensatory time, even if the current salary of the employee in that position exceeds the threshold.*

• Department budgets also are affected by employee mobility. Non-exempt employees may be paid for 1.5 compensatory time upon separation. Exempt employees who retire or are separated do not receive cash payment for accrued, unused compensatory time, but may adjust separation date to include compensatory time.

• Employees with questions should speak with their managers about job grades and duties, and office operations.

• Managers should contact your Campus Human Resources Departments ([UNT](#), [UNTHSC](#), [UNT Dallas](#), [UNT System Administration](#), [Total Rewards](#) or [Talent Management](#) departments for guidance and information regarding staff positions and duties.

Sources:
- Guidance for Higher Education Institutions-FLSA
- Fair Labor Standards Act, as amended (FLSA)