

Division of Human Resources

Frequently Asked Questions on FLSA Changes for 2016

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

The Fair Labor Standards Act (FLSA) of 1938 is the federal wage and hour law administered by the US Department of Labor. Among other things, it establishes the minimum wage, overtime pay requirements, and record keeping requirements for employees in the private and government sectors.

All employees are “covered” but some employees are **exempt** from FLSA regulations and some are **nonexempt**.

2. *What does it mean to be non-exempt or exempt?*

Nonexempt employees who work more than 40 hours in a work week are subject to the payment of overtime which is 1½ times their hourly rate of pay.

Exempt employees are considered “salaried” and are excluded from overtime payment. To qualify as exempt, all three of the following tests must be met:

- **Salary Basis Test.** Employee must be paid on a salary basis; and
- **Minimum Salary Test.** Employees must be paid above a salary threshold amount; and
- **Duty and Discretion Tests.** Employees must qualify as an executive, administrator, professional, or computer professional, otherwise known as the “white collar” exemption.

3. *What is changing?*

The Minimum Salary Test is changing. The US Department of Labor has issued its final regulations increasing the salary threshold for white-collar exemptions to \$913.00 per week or \$47,476 annually.

The effective date of this change is December 1, 2016.

4. *Who does this change affect?*

The Division of Human Resources is currently analyzing the impact of the change and will be meeting with each portfolio owner to discuss the specific impact on positions in their portfolio.

5. *Are there exclusions from these changes?*

Yes. There are some positions that are not subject to the minimum salary test requirement.

- **Faculty and instructional academic staff** whose primary duties are teaching will remain exempt regardless of their salaries;
- **Graduate students** whose primary duty is teaching or serving as a teaching assistant also fall under the FLSA’s professional teaching exemption;
- **Graduate and undergraduate students** who are engaged in research under a faculty member’s supervision in the course of obtaining a degree are not considered to be in an employment relationship with the Institute; and
- **Students who are participants in a bona fide educational program and who serve as resident advisors** in exchange for reduced room and board charges or tuition credit similarly are not considered to be in an employment relationship with the Institute.