Fair Labor Standards Act

Workshop for Managers and Supervisors

Presented by
UAH Human Resources
AGENDA

- FLSA Overview
- Definition of Non-Exempt and Exempt
- “White Collar” Exemptions
- Overtime and Compensatory Time
- Benefits
- Compensable Time
- Travel
- Recordkeeping
- Questions
What is the Fair Labor Standards Act?

- Established in 1938
- Establishes minimum wage ($7.25)
- Establishes requirements for overtime pay
- Sets standards for recordkeeping
- Requires breaks for nursing mothers
- Establishes standards for child labor
- DOL issued new guidelines in May 2016, to become effective December 1, 2016
FLSA does not cover...

- Leave time (vacation, sick, holidays)
- Meals and rest breaks
- Severance pay
- Premium pay for holidays and weekends
- Merit pay
- Fringe benefits
Enforcement of the FLSA

- Wage and Hour Division of the Department of Labor (may bring suit)
- Employer has the burden of proof
- Back pay; liquidated damages
- Attorney’s fees; court costs
- Criminal prosecution
- Fines
FLSA Cases Filed with the DOL
Exempt Employees
• Salary based compensation
• Limits on salary reductions
• Performs certain duties
• Not required to track hours worked
• Not eligible for overtime pay or compensatory time

Non-Exempt Employees
• Hourly based compensation
• Receive at least the federally mandated minimum wage
• Required to track all hours worked
• Entitled to overtime pay or compensatory time (1.5 times the hourly rate or time worked) for more than 40 hours in a workweek
What is a workweek?

- Workweek is 7 consecutive 24 hour periods (168 hours)
- UAH workweek is from Wednesday (12:00 a.m.) to Tuesday (11:59 p.m.)
- Each workweek stands alone
Determining Exempt Status

- How they are paid
- How much they are paid
- What duties they perform
How they are paid

- Salary basis
- Regular predetermined amount
- No reductions in salary because of quantity or quality of work
- Salary reductions not allowed for:
  - Jury duty
  - Military leave
  - Working less than 40 hours in a workweek
  - Weather emergencies
How much they are paid

- Standard salary level – pursuant to 29 CFR 541.600

<table>
<thead>
<tr>
<th>Current</th>
<th>Effective 12/1/2016</th>
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</thead>
<tbody>
<tr>
<td>$455</td>
<td>$913 per week</td>
</tr>
<tr>
<td>$23,660</td>
<td>$47,476 annually</td>
</tr>
</tbody>
</table>

- Automatic updates every three years beginning January 1, 2020
What duties they perform

- Primary duty must be a recognized “exempt” duty
- Job title does not establish exempt status
- “Principal, main, major, or most important” duty
- What is the primary reason this position exists?
Types of Exemptions

“White Collar” Exemptions
  ◦ Executive Exemption
  ◦ Administrative Exemption
  ◦ Professional Exemption

Other exemptions
  ◦ Outside Sales Exemption
  ◦ Computer Employees Exemption
Executive Exemption

- Must be paid on a salary basis
- Must meet minimum salary threshold ($47,476)
- Primary duty – managing a department or division
- Must manage 2 or more FTE employees
- Must have authority to hire, fire, and affect terms and conditions of employment (raises, promotions, etc.)
Administrative Exemption

- Must be paid on a **salary basis**
- Must meet **minimum salary threshold ($47,476)** (except certain academic administrative employees)
- Primary duty – **office or non-manual work** related to management or general business operations
- Must exercise **discretion and independent judgment** on matters of significance
Special Provisions for Academic Administrative Employees

- Must be paid on a salary basis
- Must be paid at least as much as entrance salary for teachers
- Primary duty – performing administrative functions related to academic instruction or training in an educational establishment
- Examples: department heads, academic counselors and advisors
Professional Exemption

- Must be paid on a salary basis
- Must meet minimum salary threshold ($47,476) (except teachers)
- Primary duty – work that requires advanced knowledge in a field of science or learning; work requiring invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor
Fields of Science or Learning

- Law
- Theology
- Medicine
- Accounting
- Teaching
- Architecture
- Engineering
- Physical, Chemical, Biological Sciences
Fields of Artistic or Creative Endeavor

- Musicians, composers, conductors
- Writers
- Actors
- Painters
- Photographers
Impact on Specific Positions

- Postdoctoral Research Employees
  - Must meet minimum salary requirements
- Teachers (including adjuncts, GTAs)
  - No salary minimum if primary duty is teaching
- Coaches
  - May qualify for teachers’ exemption
- Graduate Research Assistants – no employee relationship; no overtime
Impact on Specific Positions

- Student Residential Assistants
  - No overtime required; no employee relationship
- Admissions Counselors
  - Must meet minimum salary requirements
- Resident Directors
  - Must meet minimum salary requirements
- Student Employees (other than RAs)
  - Employment relationship; eligible for overtime
Options

- Salary adjustment (subject to approval)
- Pay overtime
- Provide compensatory time off
- Reorganize workloads, adjust schedules, flex time
Overtime & Compensatory Time

**Overtime Pay**
- Calculate at 1.5 times the regular rate of pay for any hours worked in excess of 40 hours in a workweek (Wednesday through Tuesday)

**Compensatory Time**
- Applies only to public institutions
- Credited at 1.5 hours of comp time for each hour of overtime worked
- Maximum accrual – 240 hours (160 hours worked); 480 for public safety
- Manager has authority to give comp time in lieu of cash payment for overtime
Benefits

• Benefits are Grandfathered for Professionals eligible for overtime
• Annual Leave Accrual will remain the same
• 403(b) Retirement Plan – will still be eligible for the matching from the University
• If an employee voluntarily transfers to a non-exempt position they will no longer be eligible for the 403(b) retirement plan matching benefit
Compensable Time

- Any time “suffered or permitted” is considered compensable time (coming in early, working through lunch, checking email after work)
- If an employer knows or should have known the employee was going to be working before or after regular working hours
- Employees must be compensated for short work breaks (5–20 minutes) taken during normal working hours.
Training Time

- Time spent in meetings, lectures, or training after work hours must be paid if the following criteria are met:
  - Training is mandatory
  - Training is job-related
  - Productive work is performed
On–Call Time and Call–Back Time

- **On–Call** – when an employee is required to be available to report to work outside of normal work hours
- **Call–Back** – when an employee is required to return to work after normal work hours for an emergency or other unusual circumstance
Travel Time

- Ordinary work commute time is not considered compensable
- Travel between job sites during the normal work day is work time
- Special rules for overnight travel
  - Traveling on a non-work day during regular work hours is considered compensable time (e.g. Saturday travel)
  - Travel time outside of regular work hours is considered compensable if the employee is the driver or a working passenger
  - No compensation for social events, etc.
Travel Time

- Time Zone Changes – calculate time worked based on “actual” hours

- Manager has the right to rearrange work schedules to accommodate travel and avoid additional compensation
- Any work schedule adjustments should be discussed with the employee BEFORE travel occurs
Travel Time Examples

- **Travel between job sites:** Admissions Counselors traveling to high schools
- **No compensation for social events:** After conference cocktail hour UNLESS manager requires for networking, etc.
- **Running errands:** Picking up a speaker at the airport is compensable
- **Managers:** Err on the side of caution and pay the time if in question. Remember what you do for one, you do for all!
Travel Out-of-town

- Employee’s flight leaves at 5:00 p.m. on Friday
- Employee prepares notes while in flight
- Arrives at the conference destination, takes a cab to the hotel
- Continues working on notes in the hotel room
- Leaves hotel for conference at 7:30 a.m. on Saturday; conference begins at 8:00 a.m.
- Conference ends at 5:00 p.m.
- Employee has dinner with friends
- Leaves hotel 8:00 a.m. Sunday for airport
- Flight leaves at 10:00; no work while in flight
- Flight arrives at 12:30 p.m.; gets home at 1:30 p.m.
Travel Out-of-town

- Employee’s flight leaves at 5:00 p.m. on Friday
  - Travel time before 5:00 is time worked
- Employee prepares notes while in flight (1 hour)
  - One hour of time worked
- Arrives at the conference destination, takes a cab to the hotel
  - Not considered time worked; outside of regular work hours; no work performed
- Continues working on notes in the hotel room for 2 hours
  - 2 hours of time worked
Leaves hotel for conference at 7:30 a.m. on Saturday; conference begins at 8:00 a.m.
  ◦ Travel from hotel to conference site is not time worked
Conference ends at 5:00 p.m.
  ◦ Time spent at the conference is time worked (8 hours)
Employee has dinner with friends
  ◦ Not considered time worked
Leaves hotel 8:00 a.m. Sunday for airport
Flight leaves at 10:00; no work while in flight
Flight arrives at 12:30 p.m.; gets home at 1:30 p.m.
  ◦ Travel time from 8:00 a.m. – 12:30 p.m. is time worked
# Total Hours Worked

<table>
<thead>
<tr>
<th>Day</th>
<th>Hours Worked</th>
<th>Comments</th>
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<tbody>
<tr>
<td>Wednesday</td>
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<td>Thursday</td>
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<td>Regular work day</td>
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<tr>
<td>Friday</td>
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<td>Worked on notes for 1 hour on the flight and 2 hours in the hotel</td>
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<tr>
<td>Saturday</td>
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<td>Time spent at the conference</td>
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<tr>
<td>Sunday</td>
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<td>Travel time</td>
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<tr>
<td>Monday</td>
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<td>Regular work day</td>
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<tr>
<td>Tuesday</td>
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<td>Work day</td>
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<td>Total Hours Worked</td>
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</table>

Employee must receive 15.5 hours of overtime pay or 23.25 hours of compensatory time.
Recordkeeping

- Employees are not required to punch in and out
- Must keep accurate records of hours worked for each employee
- Enter regular, compensatory time earned/used, and overtime hours worked into Web Time Entry (Banner Self-Service) or Kronos
- Manager’s responsibility to ensure that the records are accurate
Recordkeeping

- No “off-the-books” recordkeeping
- Pay for all hours worked, even if not authorized
- Cannot negotiate other arrangements for overtime – compensatory time or cash payment for overtime are the only two options
# Recordkeeping

**Time Sheet**

**Title and Number:** Administrative Assistant -- 333611-00  
**Department and Number:** Human Resources -- 306001  
**Time Sheet Period:** Oct 26, 2016 to Nov 08, 2016  
**Submit By Date:** Nov 09, 2016 by 11:59 PM

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<tr>
<td>Compensatory Time Earned 1.5</td>
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</tbody>
</table>

*THE UNIVERSITY OF ALABAMA IN HUNTSVILLE*
Recordkeeping

Leave Balances

Select the link under the Type of Leave column to access detailed information. Balances shown are as of the last completed pay cycle. Balances are subject to adjustment and verification by the Payroll Office.

<table>
<thead>
<tr>
<th>List of Leave Types</th>
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</thead>
<tbody>
<tr>
<td>TYPE of Leave</td>
</tr>
<tr>
<td>Annual Leave</td>
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<tr>
<td>Sick Leave</td>
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<tr>
<td>Personal Leave</td>
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<tr>
<td>Compensatory Time</td>
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[ Pay Stub ]
# Recordkeeping

## Payment Summary

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<thead>
<tr>
<th>Type</th>
<th>Current Period</th>
<th>YTD Amount</th>
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</thead>
<tbody>
<tr>
<td>Gross Amount:</td>
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<td>$3,978.50</td>
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<tr>
<td>Total Personal Deductions:</td>
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<td>$779.89</td>
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<tr>
<td>Net Amount:</td>
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<tr>
<td>Total Employer Contributions:</td>
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## Earnings

<table>
<thead>
<tr>
<th>Job</th>
<th>Earnings</th>
<th>Shift</th>
<th>Hours or Units</th>
<th>Rate</th>
<th>Amount</th>
<th>YTD Amount</th>
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</thead>
<tbody>
<tr>
<td>Administrative Assistant</td>
<td>Regular Pay</td>
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<td>64.00</td>
<td>$22.825000</td>
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<td>Student Specialist I</td>
<td>Student Hourly Pay</td>
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<tr>
<td><strong>Total</strong></td>
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## Non-Cash Earnings

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<th>YTD Amount</th>
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<tr>
<td>Administrative Assistant</td>
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<td>8.00</td>
<td>$34.237500</td>
<td>$273.90</td>
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</table>
Remember...

- Work doesn’t have to be authorized to be considered time worked (suffered or permitted....)
- Keep accurate records of ALL time worked
- FLSA requirements are not negotiable – an employee must receive overtime or compensatory time as required by the regulations
- Duties have not changed; these are still professional employees
- When in doubt, consult HR! We are here to help you!
Any questions?
HR Contacts

- General FLSA Requirements:
  - Laurel C. Long – longl@uah.edu; ext. 2285

- Employment Classifications/Compensable Time:
  - Cindy Backus – backusc@uah.edu; ext. 2286

- Benefits:
  - Sandra Parton – partons@uah.edu; ext. 6641
  - Patricia Ackers – ackersp@uah.edu; ext. 2275

- Recordkeeping/Payroll:
  - Vonda Maclin – vom0001@uah.edu; ext. 2282