



Fair Labor Standards Act (FLSA)

Fair Labor Standards Act (FLSA) Overview

The FLSA is a federal law that establishes recordkeeping, overtime pay and minimum wage provisions for employees. Employees are covered by the law unless they are “exempt” from its provisions, which is determined through various exemption tests. These tests include “duties tests” which evaluate the nature of the work performed and “salary tests” which impact the method and amount of salary paid.

What has changed?

In May 2016 the U.S. Department of Labor (DOL) changed elements of one of the exemption tests within the executive, administrative and professional exemption categories. Specifically, the DOL changed the salary requirement test for exemption from \$455 per week (the equivalent of \$23,660 per year for a 52 week employee) to \$913 per week (the equivalent of \$47,476 per year for a 52 week employee.) The regulations included a provision requiring that this salary level be updated every three years. In addition, the final regulations and related guidance clarified some of the “duties tests”.

When is the change effective?

The change is effective December 1, 2016.

Exempt and Non-Exempt Designations

A classification of exempt or non-exempt does not indicate the importance or value of a position within the College. The Exemption classification is solely a legal term that determines if a position is covered (non-exempt) by the Fair Labor Standards Act or “exempt” from its provisions/protections.

A position is “exempt” if it does NOT fall under the protections of the FLSA minimum wage and overtime provisions. Employees in an exempt position are paid on a salaried basis and work the number of hours necessary to complete their work regardless of their “work schedule”.

A position is “non-exempt” if it falls within the protection of the FLSA minimum wage and overtime provisions. An employee in a non-exempt position is paid on an hourly basis, is required to report their time worked each day, and will receive overtime pay at the rate of 1.5 times their regular rate of pay for hours worked in excess of 40 in a work week.

Positions are presumed to be non-exempt (hourly) unless and until the position qualifies for an exemption. In order for a position to qualify for exemption, it must meet both the duties and salary tests.

FLSA change impact to St. John Fisher College

As a result of the updated regulations, St. John Fisher College reviewed staff positions to determine whether the position should be categorized as non-exempt or exempt. A review was conducted with human resources, the supervisor, the associated Vice President or the Dean and Provost. Final recommendations regarding exemption classification were approved by the Cabinet. This process has been completed and individuals in any impacted position have been notified of how the change in law affects their position and them individually. The change in the law had no impact on the “Teaching” exemption under the regulation and therefore no full-time or part-time faculty positions were impacted.

Frequently Asked Questions

What are the tests for a position to be exempt from the law (not eligible to be paid overtime)?

In general to be exempt the position must meet three tests:

1. It must be paid on a salaried basis
2. It must meet a weekly salary threshold (this is not required for all positions)
3. The primary responsibilities of the position must meet the job duties test

What is the job duties test?

The job duties test is criteria used to evaluate the type of work that represents the primary responsibilities of the position.

Are there any jobs that are not required to meet the salary threshold in order to be classified as exempt?

Yes, positions whose primary duty is teaching (all faculty), physicians, and lawyers are examples of jobs that are not subject to the salary threshold.

How are exempt part-time employees affected?

A part time employee must earn at least \$913 a week to be classified as exempt. As a result, based on their scheduled hours most part-time employees will not earn \$913 a week and therefore will need to be classified as non-exempt after December 1, 2016.

What about employees who are scheduled to work less than 12 months per year?

While often quoted in the media as an annual salary requirement of \$47,476, the actual test is a weekly test of \$913/week. As such, the requirement is a weekly amount earned based on the number of weeks worked. As an example, the exempt salary requirement for a 10 month position is \$913 x 44 or \$40,172. This is true even if the \$40,172 is paid over 12 months. 10 month exempt employees should not perform any work for the college outside of their 10 month work obligation.

Will a change from exempt to non-exempt impact vacation eligibility?

No, current employees who are reclassified from exempt to non-exempt will be grandfathered for their current vacation eligibility schedule. New hires to a non-exempt position will be offered vacation per the policy. There are no other benefit differences between exempt and non-exempt classifications.

When does the regulation take effect?

The regulation takes effect December 1, 2016. The College will be implementing any changes effective the first day of that payroll week which is November 26, 2016.

How and when will affected employees be notified of the change?

Employees impacted by this change in regulation have already been notified.

Where can I get more information?

Additional information on the new rule is available on the Department of Labor's Wage and Hour Division Website. You can also contact Human Resources with any additional questions.