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## ■ Fair Labor Standards Act (FLSA): Salaried Non-Exempt Employees

### FACT SHEET

JUNE 2020

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The Fair Labor Standards Act (FLSA) establishes standards for such items as minimum wage and overtime pay for full-time and part-time workers. Effective 1/1/2020, changes to the criteria to be exempt from the Fair Labor Standards Act (not eligible for overtime) went into effect. The primary change that impacts employees at the University of Illinois was to the salary test for exemption, which increased from \$455/week to \$684/week.

These FAQs are updated each time the federal Department of Labor revises the FLSA to align human resource processes with the new regulations.

### General Information

Some employees who were previously exempt under FLSA no longer meet the minimum salary threshold as of January 1, 2020 and thus have been moved to salaried non-exempt status. Characteristics of salaried non-exempt employees include:

- Must track hours worked, leave time, and overtime hours each week.
- Civil Service Salaried Non-Exempt employees are eligible for overtime pay in accordance with Policy and Rules.
- Part-time salaried non-exempt employees (Civil Service, Academic Professional, and Post-Docs) who work hours in excess of their FTE will receive additional pay at straight time up to the full-time schedule for that employee group. Part- and full-time CS, AP, and Post-Docs who work hours in excess of a full-time schedule are paid at one and one-half times the hourly rate of pay.
- Academic Professional and Post-Doc Salaried Non-Exempt employees are eligible for overtime pay in excess of 40 hours per week. Salaried non-exempt administrative Graduate Assistants are paid based on a fluctuating workweek schedule. Any hours beyond 40 in a given workweek will qualify for overtime paid at one-half (1/2) the hourly rate of pay. Work and overtime hours are reported in 15-minute increments.
- Leave time hours for CS, AP, Post-Docs and administrative graduate assistants are reported in one-hour or full-day increments.
- The Notice of Appointment (NOA) signifies when an AP or Post-Doc employee is considered a salaried non-exempt employee who is eligible for overtime compensation.

### General Questions Regarding Salaried Non-Exempt Employees

Question	Answer
<b>Do I have the option of remaining exempt?</b>	No, the employee cannot choose or elect exemption status. The employer has the responsibility to determine a position's FLSA status in accordance with the Fair Labor Standards Act. In order to be exempt from FLSA provisions (not eligible for overtime), employees must pass both the duties test and salary test. If you do not pass both tests, you must be paid for overtime hours worked under the law. Exempt employees must also be paid on a salary, not hourly, basis.
<b>What salary must I have to remain exempt?</b>	The new minimum threshold to be categorized as exempt (if the duties test is also met) is \$684/week or \$35,568 per year. Per FLSA law, this salary is not annualized for part-time employees. Teaching positions are exempt under a different FLSA provision and are not subject to the salary threshold.
<b>What if I receive an annual increase that puts me over the new threshold of \$35,568?</b>	If at any time a salaried non-exempt employee receives an increase which puts their salary at or above \$684/week or \$35,568/year, the employee will be reclassified back to exempt status and will no longer be required to track their hours for overtime pay purposes.

## General Questions Regarding Salaried Non-Exempt Employees

Question	Answer
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**I work Monday-Fridays most weeks. I am required to work on a Saturday for an event. Can my department tell me not to work my normal Monday-Friday schedule that week in order to avoid paying me overtime?**

Yes, your department may adjust your schedule to avoid or limit overtime hours. This should be done on a reasonable basis and, when able, the unit should give the employee advanced notice if his/her schedule is expected to change for the week.

## Tracking Time for Salaried Non-Exempt Employees

Question	Answer
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**How will time be tracked?**

Beginning June 28, 2020, salaried non-exempt employees (Academic and Civil Service) should use the [online tracking system](#) for purposes of reporting work hours for salaried non-exempt employees. Tracking time prior to June 14, 2020 should be completed via the [Excel tracking spreadsheets](#) available on the System HR website.

**How will time be tracked for employees that are "on call"?**

Employees will track hours worked in 15 minute increments based on the conversion table for all time spent doing work. Employees are not paid for simply being on call if no work was required, unless required to do so under a departmental or collective bargaining agreement.

**How will travel time be tracked?**

Pay during periods of travel for business purposes follow the IRS and FLSA guidelines. Contact your university or system human resources office for guidance related to your specific situation.

## General Questions Regarding Salaried Non-Exempt Employees

Question	Answer
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**In what increment do I report my hours worked and overtime hours?**

You will track your regular hours worked and overtime hours on the time report in 15 minute increments. You will round to the nearest 15 minute increment based on the following schedule:

Minutes Worked	Time Reporting Minutes	Time Reporting Hours
0 -7	0	0.00
8-22	15	0.25
23-37	30	0.50
38-52	45	0.75
53-60	60	1.00

**Do I need to track my time even if I never work over 7.5 hours a day or 40 hours in a week?**

Yes, you must track your time each day even if you do not work in excess of your normal daily or weekly schedule.

**I am an Academic Professional. How do I track hours worked for weeks when the academic pay period starts/ends on a day other than Sunday or Saturday?**

For Academic employees, your regular monthly paycheck covers the academic pay period. You will also submit a weekly report of hours worked on the salaried non-exempt [online tracking application](#). Your monthly base pay will not fluctuate but you will be paid for any overtime hours or hours in excess of your FTE if you are a part-time employee.

**I am a Graduate Assistant and my schedule fluctuates depending on the week. How do I track hours?**

Administrative Graduate Assistants are paid on a fluctuating workweek. You will submit a weekly report of hours worked on the salaried non-exempt [online tracking system](#). Your monthly base pay will not fluctuate unless you work more than 40 hour in one workweek. In these instances, you will be paid one-half (1/2) your regular rate of pay for any hours over 40. You will need to get approval from your supervisor in advance to work any overtime hours.

## General Questions Regarding Salaried Non-Exempt Employees

Question	Answer
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**I am being reclassified from exempt to salaried non-exempt. Do I still report my time spent on university business in the Positive Time Reporting System?**

No. Since the new tracking system for salaried non-exempt employees is live, you will no longer report time spent on university business in the Positive Time Reporting (PTR) system.

## Overtime Compensation for Salaried Non-Exempt Employees

Question	Answer
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**How is overtime calculated?**

Eligible Civil Service employees will be compensated at one and one-half times their regular hourly rate for the hours in pay status in accordance with Policy and Rules.

Eligible impacted AP and Post Docs will be compensated at one and one-half times their regular hourly rate for the hours in pay status that exceed 40 hours in the workweek.

Administrative Graduate Assistants will be compensated at one-half (1/2) their regular hourly rate for hours in pay status that exceed 40 hours in the workweek.

**What if I work 60 hours one week then 20 hours the second week? Am I still eligible for overtime since combined I only worked 80 hours?**

Yes, overtime eligibility is based on each workweek, not a combination of workweeks. However, payment of overtime worked occurs at the end of each bi-weekly pay period. In this situation, you incurred 20 hours of overtime in week one and no overtime in week two.

**Can I use comp time in lieu of being paid for my overtime hours?**

Comp time in lieu of overtime pay must be mutually agreed upon by the employee and the supervisor/unit.

**What hourly rate will be used for my overtime pay if I have multiple jobs with different hourly rates?**

The job in which the overtime was worked will be used to determine the overtime hourly compensation rate.

**I am an academic employee. Will I have my normal deductions from my additional hours/overtime paycheck?**

Appropriate tax deductions and SURS contributions will occur as well as any percentage based deductions such as charitable deductions or supplemental retirement (403(b)). Deductions for health, dental, life insurance, and union dues will not be taken out of the additional check.

## Overtime Compensation for Salaried Non-Exempt Employees

### Question

### Answer

**Does the salaried non-exempt category protect me from discipline for chronic absences of less than 1 hour?**

No, salaried non-exempt employees are still expected to fulfill their work schedule responsibilities. Unit managers/supervisors have the right to address performance issues related to attendance if work effort or commitment is unsatisfactory, which can ultimately lead to non-reappointment or other formal disciplinary action.

## Reporting Absences for Salaried Non-Exempt Employees

### Question

### Answer

**I am a civil service employee. Which vacation accrual schedule do I use as a salaried non-exempt employee?**

Civil Service employees changing from exempt to salaried non-exempt on 1/1/2020 were grandfathered and continue to accrue vacation leave on the exempt employee [Schedule B](#) until such time they are no longer to be determined salaried non-exempt. New hires on 1/1/2020 or after who are hired into a salaried non-exempt position will accrue vacation leave on the non-exempt employee [Schedule A](#).

**How do I report my absences if I am a salaried non-exempt employee?**

Civil Service salaried non-exempt employees will be reporting in two places:

- Web or department time entry – report leave time in 1 hour increments or full-days
- Salaried non-exempt online tracking application – report actual work hours in 15-minute increments and leave hours in 1 hour increments or full-days

Impacted academic employees will be reporting in two places:

- Leave reporting system for your unit – report leave time in 1 hour increments or full-days
- Salaried non-exempt online tracking application – report actual work hours in 15-minute increments and leave hours in 1 hour increments or full-days

**What if I do not have enough leave time to cover my absence?**

If you do not have sufficient accrued leave to be paid for an absence, contact your human resources office to discuss leave options.