



# Fair Labor Standards Act

Workshop for Managers and Supervisors

Presented by  
UAH Human Resources

# AGENDA

## FLSA Overview

- Definition of Non-Exempt and Exempt
- Types of Exemptions
- Overtime and Compensatory Time
- Benefits

## Managing & Supporting Professionals Eligible for Overtime

- Compensable Time
- Travel
- Recordkeeping

## Questions

Fair Labor Standards  
Act



# FLSA Overview & Impact

# What is the Fair Labor Standards Act?

- Established in 1938
- Establishes minimum wage (\$7.25 since 2009)
- Establishes requirements for overtime pay
- Sets standards for recordkeeping
- Establishes resources for nursing mothers
- Establishes standards for child labor
- Prohibits retaliation
- DOL issued new guidelines to become effective **July 1, 2024 and January 1, 2025**

# FLSA does not cover...



- Leave time
- Severance pay
- Premium pay for holidays and weekends
- Merit pay
- Fringe benefits

*\*Although these items may fall under different legislation*

# 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
- **Possible compensatory and punitive damages**



# Exempt versus Non-Exempt

	Exempt	Non-Exempt
Compensation	Salary-Based	Hourly-Based
Restrictions	Performs certain duties Limits on reductions	Required Minimum Wage
Timekeeping	Exception time only	Tracks all hours worked
Overtime & Comp Time	Not eligible	Required at a rate of 1.5 times for all hours worked over 40 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.) – Tuesday (11:59 p.m.)
- Each workweek stands alone





# Criteria For 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
  - Weather emergencies

# How much they are paid

- Standard salary level

Current	July 1, 2024	January 1, 2025
\$684/week \$35,568/year	\$844/week \$43,888/year	\$1,128/week \$58,656

- Automatic updates every three years beginning **July 1, 2027**

# What duties they perform

- Primary duty must be a recognized **“exempt” duty**
- Job title does not establish exempt status
- 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  
Primary duty – managing a department or division
- Must manage 2 or more FTE employees
  - 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 (except certain academic employees)
- Primary duty – office or non–manual work related to management or 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 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, asst. coaches



# Professional Exemption

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

# “Learned Professionals”

- Physical, Chemical, Biological Sciences
- Theology
- Accounting
- Architecture
- Engineering
- Medicine
- Teaching
- Law



Not subject to salary  
minimum

# “Creative Professionals”

- Musicians, composers, conductors
- Writers
- Actors
- Painters
- Photographers



# Overtime & Compensatory Time

## Overtime Pay

- **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
- **1.5 hours** of comp time in lieu of overtime
- 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

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*

# Managing & Supporting Professionals Eligible for Overtime

# 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

- Engaged to wait – Work time
- Waiting to be engaged – Free time

Call-Back – when an employee is required to return to work after normal work hours for an emergency or other unusual circumstance

# Compensation During Travel

## Not Compensable

- Ordinary commute time
- Personal time/social events

## Compensable

- Travel between job sites during the work day
- Travel on a non-work day during regular work hours
- Driving out of town for a work event
- Working at any time, at any location (including as a passenger, at a hotel, etc.)

# Travel Time Examples

- **Travel between job sites:** Admissions Counselors traveling to high schools
- **Social events:** No compensation for 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 should do for all!*

# 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

# Recordkeeping

- Employees are not required to punch in/out
- **Must keep accurate records** of hours worked for each employee
- Enter regular, compensatory time earned/used, and overtime hours worked
- 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

Earning	Shift	Default Hours or Units	Total Hours	Total Units	Wednesday Oct 26, 2016	Thursday Oct 27, 2016	Friday Oct 28, 2016	Saturday Oct 29, 2016	Sunday Oct 30, 2016	Monday Oct 31, 2016	Tuesday Nov 01, 2016
Regular Pay	1	80	64		Enter Hours	8	8	Enter Hours	Enter Hours	8	8
Docked Pay	1	0	0		Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours
Overtime Pay 1.5	1	0	0		Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours
Straight Time Pay	1	0	0		Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours
Annual Leave Pay	1	0	8		Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours
Sick Leave Pay	1	0	0		Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours
Holiday Pay	1	0	0		Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours
Personal Leave Pay	1	0	0		Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours
Military Leave Pay	1	0	0		Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours
Jury Duty Pay	1	0	0		Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours
Administrative Leave	1	0	0		Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours
Administrative Leave Pay BII	1	0	0		Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours
Bereavement Leave Pay	1	0	0		Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours
On the Job Injury	1	0	0		Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours
Compensatory Time Taken	1	0	8		8	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours	Enter Hours
Compensatory Time Earned 1.5	1	0	8		Enter Hours	Enter Hours	Enter Hours	Enter Hours	5	Enter Hours	Enter Hours
<b>Total Hours:</b>			88		8	8	8	0	5	8	8
<b>Total Units:</b>				0	0	0	0	0	0	0	0

# 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.

### List of Leave Types

TYPE of Leave	Hours or Days	Available Beginning Balance	Earned as of Nov 04, 2016	Taken as of Nov 04, 2016	Available Balance as of Nov 04, 2016
<a href="#">Annual Leave</a>	Hours	50.00	.00	8.00	42.00
<a href="#">Sick Leave</a>	Hours	60.00	2.76	.00	62.76
<a href="#">Personal Leave</a>	Hours	.00	24.00	.00	24.00
<a href="#">Compensatory Time</a>	Hours	70.00	12.00	8.00	74.00

[ Pay Stub ]



# Recordkeeping

## Payment Summary

Type	Current Period	YTD Amount
Gross Amount:	\$1,826.00	\$3,978.50
Total Personal Deductions:	\$567.75	\$779.89
Net Amount:	\$1,258.25	\$3,198.61
Total Employer Contributions:	\$339.25	\$339.25

## Earnings

Job	Earnings	Shift	Hours or Units	Rate	Amount	YTD Amount
Administrative Assistant	Regular Pay	1	64.00	\$22.825000	\$1,460.80	\$1,460.80
	Annual Leave Pay	1	8.00	\$22.825000	\$182.60	\$182.60
	Compensatory Time Taken	1	8.00	\$22.825000	\$182.60	\$182.60
Student Specialist I	Student Hourly Pay	1				\$2,152.50
<b>Total:</b>					<b>\$1,826.00</b>	<b>\$3,978.50</b>
<b>Non Cash Earnings</b>						
Administrative Assistant	Compensatory Time Earned 1.5	1	8.00	\$34.237500	\$273.90	\$273.90

# Remember...

- Work doesn't have to be authorized to be considered time worked
- Keep accurate records of ALL time worked
- FLSA requirements are not negotiable – an employee must receive overtime or compensatory time as required by the law
- Duties have not changed; these are still professional employees

# Timeline

DATE	ACTION
April 23	DOL announces new FLSA rule <sup>1</sup>
May 10 – June 10	Senior leadership meetings/reviews
June 3	FLSA website launch ( <a href="https://www.uah.edu/hr/flsa">https://www.uah.edu/hr/flsa</a> )
June 10 – 17	FLSA supervisor training sessions
June 17	Deadline to submit position re-evaluations <sup>2</sup>
June 26	Notification letters for impacted employees
July 1	Phase I FLSA changes take effect

1 Lawsuits filed; potential for preliminary injunctive relief

2 Human Resources will process all exemption changes related to FLSA compliance. Departments do not need to submit ePAFs or PageUp requests. However, departments may request position re-evaluations for any staff who have had a substantial change to their duties (60% or more) for consideration prior to planned FLSA changes.

Lastly, when in doubt, please contact HR.  
We are here to partner with you.



# Travel Case Study

# Case Study: 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**

# Travel Out-of-town

- ▶ 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

Day	Hours Worked	Comments
Wednesday	8	Regular work day
Thursday	8	Regular work day
Friday	11	Worked on notes for 1 hour on the flight and 2 hours in the hotel
Saturday	8	Time spent at the conference
Sunday	4.5	Travel time
Monday	8	Regular work day
Tuesday	8	Work day
Total Hours Worked	<b>55.5</b>	

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