



General FLSA Information

What is the Fair Labor Standards Act or FLSA?

The FLSA is a federal law that establishes minimum wage, overtime pay, recordkeeping and youth employment standards for employees in the private sector and in federal, state and local governments.

What is changing?

The Minimum Salary Threshold Test for the white-collar overtime exemption is changing. The U.S. Department of Labor (DOL) has finalized changes that will raise the minimum salary threshold to the 40th percentile of weekly earnings for full-time salaried workers. The minimum salary threshold, above which an employee can be designated as exempt from overtime requirements, is \$913 a week or \$47,476 annually for a full-year worker. The effective date of the Final Rule is Dec. 1, 2016. Future automatic updates to those thresholds have been proposed to occur every three years, beginning on Jan. 1, 2020.

Why did the DOL make this change?

The DOL concluded the prior standard salary level of \$455 weekly (\$23,660 annually for a full-year employee) set in 2004 for this exemption was too low. Indeed, the real value of the salary level has fallen significantly since it was set 12 years ago. Today, the annualized equivalent of the standard salary level is below the 2015 poverty threshold for a family of four, making it inconsistent with Congress' intent to exempt only "bona fide EAP workers," i.e., those workers covered by either the Executive, Administrative or Professional exemptions (discussed in detail below).

What does it mean to be exempt or non-exempt?

Exempt employees are excluded from overtime payment. Non-exempt employees are subject to the payment of overtime. Exemption is based on qualifying for all three of the following tests:

- **Salary Basis Test:** Employee must be paid on an annual salary basis;
- **Minimum Salary Threshold Test:** Employees must be paid above a salary threshold amount that is currently \$913 per week or \$47,476 annually; and
- **Duty and Discretion Tests:** Employee must qualify as an Executive, Administrator, Professional or Computer Professional.

What is the Standards Duties Test?

Find out more about the FLSA and overtime exemptions on USG's website at <http://www.usg.edu/hr/flsa>. Additional information is on the DOL's website: https://www.dol.gov/whd/overtime/fs17a_overview.pdf.

What does this mean for me?

If you are in a position that is evaluated and determined to be non-exempt, you will become eligible to earn overtime wages or compensatory time if you work over 40 hours during a given workweek. This may change the way you report your hours worked to document the time you are eligible for overtime earnings.



My job title is “manager.” Am I exempt from overtime pay?

You must meet the standards of the exemption tests regardless of your job title. For an exemption to apply, a white-collar employee’s specific job duties and salary must meet all of the applicable requirements provided in the U.S. Department of Labor (DOL) regulations. Accordingly, the duties test must be met even if the employee’s salary exceeds the standard salary level.

Can I or my department opt out of FLSA changes if we want to handle things differently?

No. These changes are driven by federal law which applies to employees across the United States, not by the USG.

Time Recording

How should actual hours worked be recorded?

Non-exempt employees must accurately report all hours worked and any leave taken during each pay period in the timekeeping system of record (i.e ADP, etc). Each non-exempt employee is responsible for ensuring that all time worked and leave taken are accurately reflected on their timecard; and the timecard must be approved by the employee by the established payroll approval deadlines. Failure to approve the timecard by the established deadline may jeopardize on-time processing and receipt of employee pay.

Is a lunch break required for overtime-eligible employees?

Though not required, employees are encouraged to take a lunch break. Skipping lunch should be the exception, not the norm, and should be approved by your manager/supervisor.

Are overtime-eligible employees entitled to breaks and rest periods?

Frequent unscheduled breaks are not required and may be addressed by the employee’s manager/supervisor. Breaks, particularly bona fide meal periods (typically lasting at least 30 minutes), are generally encouraged but not included in time worked.

Will newly overtime-eligible employees have to record their hours on a daily basis or “punch a time clock?”

The FLSA requires that employers keep certain records for each non-exempt worker. That is so workers can be sure they are paid the wages they earn and are owed. Each institution will establish the timekeeping method they deem most appropriate for their operational needs (in accordance with applicable FLSA regulations and USG policies).

Does the FLSA allow for a flexible schedule for overtime-eligible employees? Can employers still allow employees to work from home or have flexible schedules?

The FLSA does not set forth these types of stipulations. Each institution will determine and establish policies and procedures as deemed appropriate in support of their business needs.



Travel for Overtime-eligible Employees

How is travel time paid for non-exempt employees who go out of town for work?

Generally, travel away from home is considered work time when it cuts across the employee's normal workday. This includes hours worked on regular working days during normal working hours as well as corresponding hours on nonworking days. Refer to institution and USG specific policies for details. Additional information is also available in DOL Fact Sheet #22 (Hours Worked Under FLSA)

Time Reporting Questions for Employees

Who approves my submitted hours?

Your manager/supervisor will approve your time and make sure it is ready for payroll to process on a weekly basis.

What is considered overtime?

Overtime-eligible employees are paid overtime for hours worked over 40 hours in the workweek.

Is overtime calculated daily?

No, overtime is calculated based on the workweek.

What is considered a workweek?

A seven (7) day period in which the required working hours for full-time employees equal forty (40) hours, with distribution of such hours during the workweek a matter of scheduling left to the individual institutions.

How will overtime be calculated during a holiday week?

Overtime is paid on actual hours worked. That means paid hours that are not actually worked, such as vacation, sick and holiday pay do not count toward being paid overtime.

If I work part time, how many hours do I have to work to get paid overtime?

According to state and federal law, overtime begins after an overtime-eligible employee has worked in excess of 40 hours in the workweek; there are no adjustments or pro rations if someone works less than 40 hours.

If I work more than 40 hours in a workweek, how is overtime pay calculated?

Overtime is calculated at one and one-half times the employee's regular rate of pay for hours worked in excess of 40 in a workweek.

Do I need to get approval from my supervisor to work more than 40 hours?

Yes, you always need to get approval from your manager/supervisor in advance if you plan or need to work more than 40 hours in a workweek to meet the expectations of your job.



What happens if I work overtime and don't obtain prior approval from my manager/supervisor?

You will be paid for time worked in accordance with applicable regulations. However, you and your manager should discuss your work schedule prior to working any overtime. Failure to obtain approval in advance of working overtime may result in discipline up to, and including, termination.

Do I need to report hours worked outside of my normal work schedule?

Yes. If you are a non-exempt employee, you must report all hours worked including nights or weekends if they are outside of your normal work schedule and location.

What if I work from home?

If you are a non-exempt employee working from home, you must report all hours worked, regardless of where or when they are worked in relation to your "normal" workday.

Can I still have a flextime schedule?

If you and your supervisor agree to a flextime schedule, you can continue to work a flextime schedule upon mutual agreement between you and your supervisor. As a non-exempt employee, you must report all hours worked within a workweek, and you will be paid accordingly.

Can I offer to work on my own time without any expectation of payment?

No, non-exempt employees must be compensated for all hours actually worked.

Can an employee decide to waive payment of overtime?

No, the overtime requirement may not be waived under any circumstances due to federal guidelines.

Pay Questions

How do I calculate my hourly pay?

You will need the number of work hours in a year:

- 40 hour workweek x 52 weeks in a year = 2080 work hours in a year
- Then take your annual salary and divide it by 2080 (number of work hours in a year)
- Example: \$30,014.40 divided by 2080 = \$14.43 per hour

How can I calculate what my new bi-weekly check will be before taxes?

Take your hourly rate and multiply it by 80 (if full time) (2 weeks in a pay period x 40 hours in each workweek). Example: \$14.43 x 80 = \$1,154.00

When are non-exempt employees paid?

The bi-weekly Payroll Calendar is available online at http://www.usg.edu/assets/hr/flsa/2017_Payroll_Calendar_for_ADP_Schools-for_Benefits.pdf

Does the change in pay schedule affect my direct deposit status?

You will not need to change your direct deposit information as part of this change. Any direct deposit authorizations you have set up will continue after your pay frequency changes. However, if you have



any fixed-dollar amounts automatically deducted by your financial institution, you may want to adjust the amount (see Deduction Question below more information).

Why is my check less than half of my monthly check?

There are 26 pay periods (bi-weekly), rather than 24 pay periods (bi-monthly) in a year. While your check may be less than half each check, there will be two times a year that you will be paid three times in one month. See the Payroll Calendar for pay days.

Deduction Questions

Will benefit deductions change?

Yes. Your pay period benefit deductions for medical, dental, etc. will be recalculated based on the new bi-weekly pay frequency.

Will transitioning to overtime eligible status affect my supplemental retirement contributions?

If you are signed up to have money deducted from your check for a supplemental retirement account, it may be necessary to submit a revised salary reduction agreement form to change the amount. Consult your HR department for details related to your specific account.

Will the change in pay frequency affect my sick and vacation accruals?

No. You will continue to earn the same sick and vacation accrual rates. Leave accruals are typically posted the second bi-weekly pay period for ADP institutions. For non-ADP institutions, please consult with your HR department for specific details.

How will the transition to bi-weekly pay affect the amount deducted for my garnishment?

If the garnishment deduction is calculated as a percentage of your earnings, a deduction will occur each pay period, up to the maximum deduction allowed based on federal and state regulations.

Will I need to make changes to my tax withholding?

You should review your particular tax situation and update your W-4 accordingly.