

# Fair Labor Standards Act

## *Manager Toolkit*

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# IMPORTANT CHANGES IN OVERTIME REGULATIONS

On April 23, 2024, the Department of Labor approved a new overtime rule under the Fair Labor Standards Act (FLSA) that is set to go into effect July 1, 2024. This new rule will require employers to pay overtime to all employees making less than \$43,888 annually. Additionally, the Department of Labor's rule implements an automatic threshold increase to \$58,656 effective January 1, 2025, and establishes that automatic updates to the threshold will occur every three years.

In order to comply with the ruling, optimize change management and logistical requirements of the changes, and in consideration of the timing of changes for employees, LSU will proceed with converting all individuals who have a salary below \$58,656 and/or who occupy a position with a position range minimum less than \$58,656, to hourly non-exempt for the July 1 implementation. Due to the bi-weekly pay period beginning on June 29th, the conversion to hourly non-exempt will occur on this date.

Certain employee groups are exempt from the Department of Labor salary test and are not required to meet the new salary threshold; this includes teachers/instructors, coaches, and medical/veterinary residents and interns. These are the only classifications exempt from this proposed overtime rule. Note that there is no proration for part-time workers.

**If an employee makes less than \$58,656 annually and/or occupies a position with a position range minimum less than \$58,656, their position will be reclassified as non-exempt hourly, and they will be eligible for overtime pay effective June 29, 2024, to comply with the July 1, 2024, FLSA regulations.**

## Teaching Exemption Information:

- Classroom instruction and coaching qualifies for the teaching exemption.
- Counseling, admissions, and training are examples of functions that will not be exempt under the teaching exemption.
- The new rules do not affect instructional faculty (tenure track, clinical track and lecturers).
- Research faculty and librarians will be affected if the base salary does not meet the FLSA threshold.

## KEY POINTS FOR DEPARTMENTS

Based on the new federal FLSA regulations, LSU is required to reclassify employees making less than \$1,128 per week or \$58,656 annually from exempt to non-exempt status which affects your department in a few important ways:

- 1.** Affected employees will now enter their time in Workday to get paid. Timely manager approval in Workday is required in order for the employee to get paid.
- 2.** Affected employees will be paid 1.5 times their regular hourly rate for time worked in excess of 40 hours worked in an assigned standard work week (Saturday 12:00 am - Friday 11:59 pm). Compensatory Time can be substituted for overtime payments as outlined in Policy Statement 61.
- 3.** Each department is responsible for the financing of their overtime or compensatory time from their regular budget. Departments should account for their annual overtime needs within the annual budget construction process.
- 4.** Departments should establish and inform each employee, in writing, who is being paid an annual base salary under \$58,656 of their regular work hours, work schedule, and hourly rate. LSU's Office of Human Resource Management will provide a standardized template for this communication.
- 5.** Overtime or Compensatory time must be approved by the supervisor in advance of the hours being worked. The supervisor, in a formal manner in advance of any change, must approve work schedule deviations. Deviations from the standard 5 day, 40 hour workweek must be reviewed by HRM in advance to ensure compliance and to gauge budgetary impact.

## MANAGING OVERTIME

Supervisors may need to set new expectations and change department schedules or behaviors in order to manage overtime according to their budgets. Overtime may be necessary, but it must be pre-approved by the employee's supervisor. However, whether or not the overtime was pre-approved, overtime must always be paid. A clearly defined approval process can assist you and your employee(s) in managing both time and budget resources.

### **What are some options for responding to the changes in the salary level?**

- Pay overtime after 40 hours.
- Offer compensatory time in lieu of cash overtime pay, provided it is approved in advance and meets certain criteria.
- Reorganize workloads and/or utilize flexible scheduling within the standard LSU work week beginning Saturday 12:00 am - Friday 11:59 pm.

## USING COMPENSATORY TIME

Compensatory time can be substituted for overtime payments for unclassified, non-exempt employees with the following requirements

- Compensatory time must be credited at the same rate as overtime--1.5 times the hourly rate for time worked in excess of 40 hours.
- Supervisors cannot force a non-exempt employee to forfeit or convert cash overtime into something else, and similarly cannot force a non-exempt employee to forfeit comp time or to convert it to sick time, vacation time, or other paid time off.
- Non-exempt employees must agree beforehand to be compensated with compensatory time instead of cash overtime, either in a memorandum of understanding or other agreement or via some other agreement or understanding arrived at with the employee before the work is performed.
- Compensatory time has a number of distinct rules aligned with it and those rules must be followed. Please refer to Policy Statement 61.
- Managers cannot significantly infringe upon the use of compensatory time by employees. The use of compensatory time by employees subsequent to earning that time must occur in a reasonable time period following its accumulation.

**Non-public safety workers are only allowed to accrue 240 hours of compensatory time.**

## COMPENSATORY TIME AT TERMINATION

Employees must be paid for all accrued compensatory time upon the termination of their employment, regardless of reason.

- The amount paid per hour will be the average of their hourly rate for the last three years of employment or their final hourly rate, whichever is higher.
- The amount of compensatory time accrued will not be counted toward the maximum accumulation of leave at the time of termination.
- Departments will need to finance the payout of compensatory time from within their annual budget.

## WHO IS AFFECTED?

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### **Q: Do the new FLSA rules affect faculty?**

A: The new rules do not affect faculty whose primary position's responsibilities involve instruction (tenure track, clinical track, and lecturers). Research faculty and librarians may be affected if the salary is below the FLSA threshold of \$58,656.

### **Q: Are graduate assistants and student workers affected?**

A: When instruction is the primary duty, the new rules do not apply, and Teaching Assistants will not become eligible for overtime pay. Also, when research assistants are engaged in research while obtaining a degree, they will not become eligible for overtime pay under the new rules.

### **Q: If an employee makes the current threshold at 100% FTE but reduces effort and drops below the threshold, will they convert to non-exempt hourly?**

A: Yes, the employee will convert to non-exempt hourly and enter time for all hours worked.

### **Q: Does this new rule apply to employees working 12-hour shifts?**

A: Yes, organizations utilizing irregular shifts are obligated to follow the new rules. Please contact the HRM Time & Absence department for timekeeper instructions for irregular work schedules.

## GENERAL Q&A

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### **Q: Can I opt out of this change?**

A: An employee and employer cannot agree to waive any of the federal law's requirements.

### **Q: If I am being moved from salaried to hourly wage, is it considered a demotion?**

A: No, the transition from exempt to non-exempt is necessary to comply with federal regulations; therefore, in no way should this change be considered a demotion. This change will not adversely affect the actual or perceived value of an employee's work or the importance of their contributions to LSU.

### **Q: What happens if I work more than 40 hours per week?**

A: Any hours worked in excess of 40 hours per week must be paid at the rate of 1.5 times your regular hourly rate. The standard work week is Saturday 12:00 am to Friday 11:59 pm.

### **Q: Can non-exempt hourly employees still earn additional compensation?**

A: Per Permanent Memoranda 3, additional compensation may be provided to employees for the performance of duties outside the scope of their primary job and beyond 100% effort (outside of normal work hours). Therefore, additional compensation must be paid at the employee's overtime rate which is calculated based on their primary position's base rate. Contact the HRM Compensation Department for questions.



**Q: How will I keep track of my time?**

A: You will be required to enter your time in Workday. Failure to submit time by the required deadline will result in non-payment to the employee. Also, failure of the supervisor to approve time by the required deadline will result in non-payment to the employee. Employees must wait until a future payroll to receive the catch-up in payment.

**Q: Will this impact my unclassified/other academic/faculty status?**

A: No, employees will remain in their current unclassified/other academic/faculty status and outside the Civil Service classification.

**Q: What does the exemption status mean?**

A: Employees classified as exempt are not eligible to earn overtime and must be salaried. Employees classified as non-exempt are entitled to overtime pay.

**Q: What are the impacts on the pay schedule if someone is converted from salary to non-exempt hourly?**

A: The employee will be paid on a bi-weekly basis instead of a monthly pay schedule. The bi-weekly pay schedule will result in 26 bi-weekly paychecks annually instead of 12 monthly paychecks.

**Q: Will switching from exempt to non-exempt impact my annual and sick leave accruals?**

A: No, it will not impact your annual and sick leave accruals. You will continue to accrue on your current unclassified accrual schedule.

**Q: Will switching from exempt to non-exempt impact my benefit elections and retirement plans?**

A: No, your benefit elections and retirement enrollment will not be affected. However, benefit and retirement deductions will move to a bi-weekly schedule; therefore, you may need to make adjustments to how much you have set up to contribute per paycheck to supplemental retirement (403(b)/457(b)) elections.

**Q: What happens if I take time off during the week?**

A: Time off does not count towards the 40 hours worked for overtime rate calculations. This includes annual leave, sick leave, jury duty, military leave, unpaid leave, etc. Employees will be paid their regular rate of pay for all hours worked and leave taken up to 40 hours per week.

**Q: Will I receive overtime for working on an LSU holiday?**

A: Yes, employees who work on a holiday will be paid 1.5 times their rate of pay for all hours worked on the holiday, regardless of the total hours worked during the week.

**Q: Can I work overtime and tell my supervisor later?**

A: No, employees must have overtime approved by their supervisor prior to work commencing.

**Q: Where will the funding for this overtime pay come from?**

A: Each department is responsible for the financing of their overtime or compensatory time from their regular budget.

**Q: How will the career progression series be impacted if some levels are below the threshold and some are above?**

A: Those levels that have a minimum salary that falls below will be converted to non-exempt, while those above remain exempt.

**Q: Does my hourly pay rate include stipends, allowances, or additional compensation?**

A: No, the official hourly base rate does not include stipends for telephones, expense reimbursements, clothing allowances, benefits, additional compensation, supplemental compensation, etc.

**Q: How will travel time be managed for those who travel to conferences, meetings, etc.?**

A: The Department of Labor (DOL) has specific information regarding travel time that can be found on the [DOL website](#).

**Q: Does commute time count towards the 40 hours?**

A: No, commute time does not count toward the 40 hours worked per week.

**Q: Do lunch breaks count towards the 40 hours?**

A: Lunch breaks do not count toward the 40 hours worked per week (when lasting 30 minutes in duration or longer).

**Q: Who is going to let the employee know of this change?**

A: While HRM is going to send out a series of informational materials, each department should establish and inform each employee in writing who is being paid an annual base salary under \$58,656 annually of their regular work hours, work schedule, and hourly rate.

**Q: How should I handle changes in an employee's work schedule?**

A: Any changes in a work schedule should be approved by the supervisor in a formal manner in advance.

**Q: What should I do if I know I need my employees to work overtime?**

A: Departments should account for their annual overtime needs within the annual budget construction process.

**Q: Where can I get more information?**

A: Complete information is available on [LSU's HRM website](#) and on the [Department of Labor's Wage and Hour Division](#) webpage. Additionally, please refer to [LSU's Employee Overtime Policy \(PS-61\)](#). Please contact [hr@lsu.edu](mailto:hr@lsu.edu) with any additional questions.



## COMPENSATORY TIME

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**Q: Can I receive compensatory time in place of overtime?**

A: Yes, but it must be documented in writing and approved by your supervisor in advance.

**Q: Will I receive one hour of compensatory time for one hour of work time?**

A: You will receive 1.5 hours of compensatory time for each hour worked in excess of 40 hours worked per LSU overtime policy. Compensatory time will accrue hour for hour up to 40 hours worked during the standard work week.

**Q: How do I track compensatory time?**

A: Compensatory time earned for approved overtime will be entered in Workday in lieu of hours worked for approved overtime. Workday will calculate the accrual of hours and the compensatory time off balance will be available with your other accrued leave hours in Workday.

**Q: Is there a maximum accrual of compensatory hours?**

A: Yes, employees cannot accrue more than 240 hours of compensatory time. Employees must be paid for all overtime hours if they accrue the maximum of 240 hours of compensatory time.

**Q: What happens to my compensatory time upon termination of employment?**

A: Employees must be paid for all accrued compensatory time, regardless of the reason for termination.

**Q: Can I save my compensatory time?**

A: Compensatory time should be used in a reasonable amount of time following its accumulation. LSU requires employees to exhaust their compensatory balance before using accrued annual leave.

**Q: If an employee earns compensatory time with one department and then transfers to another department, what happens to the compensatory time balance?**

A: If the employee has not used the compensatory time within a reasonable amount of time following its accumulation, the balance remains with the employee when transitioning to the department. The new department assumes the balance with the employee and should they separate from the university and would be responsible for the financing of the compensatory time payout from their regular budget.

## RESOURCES

The Time and Absence Department within the Office of Human Resource Management is organizing face-to-face Workday time entry help sessions for employees and supervisors impacted by the FLSA changes. Registration is not required to attend.

### Location:

LSU Library

### Dates/Times:

Friday, 7/5/2024 – 9:00 – 10:30 am

Thursday 7/11/2024 – 2:00 – 3:30 pm

Friday 7/12/2024 - 9:00 – 10:30am

Monday 7/15/2024 - 9:00 – 10:30am

U.S. Department of Labor: Wage and Hour Division Final Rule: [Overtime](#)

US Department of Labor Guidance for Higher Education Fact Sheet: [Guidance for Higher Education Employers](#)

LSU Employee Overtime Policy: [Policy Statement 61](#)

LSU Flexible Work Hours and Staffing Policy: [Policy Statement 79](#)

Manage Workday Delegations: [Manage Delegations Job Aid](#)

Delegation Frequently Asked Questions: [Delegation FAQ](#)

Time Tracking & Absence Reports: [Time Tracking & Absence Job Aid](#)

