

The Effect of FLSA Changes on Emory

- The Fair Labor Standards Act (FLSA) was implemented in the 1930s to benefit and protect employees by establishing a minimum wage and requiring employers to pay overtime for employees working over 40 hours per week, unless they met certain criteria to be “exempt” from overtime.
- While the workplace has changed dramatically in the past 50 years, the FLSA had not been significantly updated.
- Changes to the FLSA were passed on April 23 to be effective August 23, 2004. The DOL increased the minimum salary to be exempt (from \$250 per week to \$455 per week), and clarified and simplified the criteria for exemption. In some cases, this made it easier for jobs to be considered exempt (this has gotten a lot of press). In other cases it clarified the need for jobs to be non-exempt.
- Our lawyers and HR staff began immediately working to identify the areas of impact. This required thorough understanding of the regulations, benchmarking with other institutions, and analysis of job duties for approximately 150 jobs.
- Approximately 40 jobs (800 employees) were identified as needing to move from exempt to non-exempt (thus becoming eligible for overtime), based on the standard job duties compared to the new exemption criteria. Because of the timing of the changes, and the need to be compliant quickly, individual position duties for each of the 800 employees were not analyzed separately.
- Employees in the identified jobs may continue to be paid monthly through January, 2005, but must track their time on a paper time sheet and must be paid overtime if they work over 40 hours in a week.
- The timing was very bad for Emory: beginning of the fiscal year, beginning of the school year. However, just like we can't choose to provide FMLA -- we have no choice in compliance.
- The FLSA status does not indicate job “value” -- it is a legal interpretation based on the nature of the work. Employees such as nurses, certain supervisory employees and certain computer professionals have always been non-exempt at Emory.
- Emory will need to address the financial implications of overtime to the affected employees and departments.
- Emory will need to also clarify for faculty supervisors, how (if at all) their supervision should change, if employees are now non-exempt.

- Important legal and University policy guidelines for non-exempt employees include:
 - Overtime must be paid to employees who work more than 40 hours in a week. Employees can not waive their right to overtime pay.
 - It is against the law for employees to work “off the clock”.
 - Attendance at University functions and meetings is considered paid time.
- The initial changes affected all employees in 40 job titles identified as having duties that did not qualify for exemption.
- What we will do next is to determine whether individual employees, as they perform their jobs in specific units, are appropriately classified in the current job title, or whether they should be in a different job title (which may or may not be exempt).
- We will do this by collecting information from employees about their specific job duties, and asking their supervisors about specific types of responsibilities that will help determine whether the job may be considered exempt.
- We will work with each unit to determine the best process for analyzing this information and comparing it to the exemption criteria.
- Each unit will also be involved in deciding how best to implement the changes for the long-term (e.g., whether supervision practices will need to change, how to determine if overtime is required, how to pay for overtime, what the effect will be on work schedules, etc.)
- At the end of this process, every position will be identified as exempt or non-exempt based on the specific duties.
- By February, all employees in non-exempt positions will begin to be paid bi-weekly and using the standard timekeeping system for their area (Time and Attendance System or timesheet).
- Ultimately, the decision on whether a position should be exempt or non-exempt must be legally defensible for Emory.
- We have established a communication plan that will help employees and supervisors understand the approach and how they will be involved, including an “answer line” (phone and email) and web site.

General Process for FLSA Data Collection, Review and Decisions

Step	Time Frame
Identify unit teams for data review	By October 1
Train teams on application of FLSA criteria	October 5-8
Develop unit-specific time line for data collection and review	October 12
Recommendations due	October 29
Consultant review of recommendations (unit teams should be available for questions/followup)	November 1- 30
Final decisions on exemption	December 3
Communication to units from HR	December 6
Unit communication to supervisors and employees	December 10
Changes to job titles, as necessary	December 10-22
Training on TAS for all employees switching to biweekly	January, 2005

Notes:

- The HR contact for each unit will assist with development of the unit-specific work plan and communication plans, and can help facilitate the collection and review of data.