Questions during the webinar?

To ask a question, select to send to the host.

Type your question in the chat box and click “Send” or hit “Enter” on your keyboard.
Part 1 Learning Objectives:

- Articulate to others:
  - The principles of the Fair Labor Standards Act (FLSA)
  - The basic policies that govern the FLSA and who they apply to
- State the definition of an Exempt employee under the FLSA
- Define the set of standards used to determine exemption status under the FLSA
- Prepare for the change while keeping in mind timekeeping, job descriptions, budget, and morale
- Champion new knowledge and processes at your respective divisions

NOTE: Information applies to employees who are not covered by a collective bargaining agreement or for whom the agreement contains no provision regarding this subject
What is the FLSA?

• Also known as the Federal Wage and Hour Law
• Regulates minimum wage, overtime, equal pay, recordkeeping, and child labor
• Section 29 of the US Code (and section 29 of the Code of Federal Regulations).
The U.S. Department of Labor (DOL) issued changes to the FLSA regulations that affect most employers in the United States and its territories, including Universities.
Changes will be effective **October 1, 2016** at the University of Cincinnati: Rationale

**Payroll**

- **Least impact from a payroll perspective to employees moving to bi-weekly**
  - Transitioning employees will receive their first bi-weekly paycheck on 10/18
    - This includes pay for 10/1 – 10/8
  - Transitioning employees second bi-weekly check will be on 11/1
    - This includes pay for 10/9 – 10/22
  - The bi-weekly payroll schedule can be found on the Payroll website:
    - [http://www.uc.edu/content/dam/uc/af/controller/payroll/docs/2016_PAYROLL_CALENDAR.pdf](http://www.uc.edu/content/dam/uc/af/controller/payroll/docs/2016_PAYROLL_CALENDAR.pdf)

**Annual Benefit Enrollment**

- **By implementing the change by 10/1, annual enrollment will properly reflect the employee’s bi-weekly costs for UC benefits**
  - The cost for benefits is the same for unrepresented exempt and non-exempt employees
  - ESS will reflect the bi-weekly cost rather than the monthly cost
Enforcement

- Wage and Hour Division of the U.S. Department of Labor (DOL)
- Applies in all states

Federal, State, and Local governments

Hospitals

Universities
Basic provisions for Wage and Overtime under the FLSA

Minimum Wage and Overtime Pay

• Employers must pay employees at least the federal minimum wage as well as an overtime premium for hours worked in excess of 40 per work week, usually at a rate of one and one-half times the employee’s “regular rate” of pay

• State of Ohio minimum wage = $8.10 per hour
Basic provisions for Wage and Overtime under the FLSA (continued)

Minimum Wage and Overtime Pay

- Under the FLSA, all employees are considered non-exempt (not exempt from coverage) unless:
  - The employee’s position meets specific exemption criteria, or
  - The regulations specifically allow an exemption, and the employer has opted to use this exemption.
FLSA Exemptions

The FLSA provides an exemption from both minimum wage and overtime pay for:

- Certain “white collar” workers:
  - Executive employees
  - Administrative employees
  - Learned professional employees
  - Creative professional employees
  - Computer employees
  - Teaching professional employees
Qualifying for “White Collar” Exemption

1. Be salaried, meaning that they are paid a predetermined and fixed salary that is not subject to reduction because of variations in the quality or quantity of work performed ("salary basis test") AND

2. Be paid equal to or more than a specified salary threshold (the “salary level test”) AND

3. Primarily perform executive, administrative, or professional duties as provided in the DOL’s regulations (the “duties test”)
Higher Ed Exempt Positions

• Bona fide teachers (professors, adjunct instructors, teachers)
• Coaches

Optional for Universities

- Option to consider Academic Administrative personnel “exempt”
  - Those that help run higher education institutions and interact with students outside the classroom, such as department heads, academic counselors and advisors, intervention specialists and others with similar responsibilities

- If UC chooses this option, these employees will not be entitled to overtime compensation if they are paid at least as much as the entrance salary for teachers at their institution.
  - UC has determined that the entry salary level for teachers is $35,000

Higher Ed Exempt Positions

• Students
  – Graduate Assistants
  – Resident Advisors

2016 Salary Level Change

“White collar” exemption
• New minimum salary level to qualify
  
  Current
  $23,660/yr.

  New
  $47,476/yr.

Academic Administrative Personnel
• Subject to special alternative salary level

  $35,000/year
Higher Education Workers Who Will Be Affected

- Non-Teaching Postdoctoral fellows/researchers:
  - Non-Academic Administrative Employees
    - e.g. admission counselors and recruiters
- Other salaried workers

Reminder

- **Salary and hourly** = method of wage payment; they are not a classification
- **Classifications** = exempt and non-exempt
At the University of Cincinnati:

<table>
<thead>
<tr>
<th>Exempt</th>
<th>Non-Exempt</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Paid on a salaried basis monthly</td>
<td>• Paid on an hourly basis bi-weekly</td>
</tr>
<tr>
<td>• Not eligible for overtime</td>
<td>• Eligible for overtime</td>
</tr>
<tr>
<td>• Do not clock in and out</td>
<td>• Must clock in and out</td>
</tr>
</tbody>
</table>

Exempt = Salaried  
Non-Exempt = Hourly
What does this mean to you?

• **Transition to non-exempt**

  – Employees making less than the new salary threshold of $47,476 will be transitioning to a non-exempt status
    • Eligible for overtime
    • Paid bi-weekly instead of monthly
    • Timekeeping required
## Second Jobs

<table>
<thead>
<tr>
<th>PRIMARY POSITION</th>
<th>SECONDARY POSITION</th>
<th>OVERTIME PAYMENT?</th>
</tr>
</thead>
<tbody>
<tr>
<td>EXEMPT (salaried)</td>
<td>EXEMPT</td>
<td>NO</td>
</tr>
<tr>
<td>EXEMPT</td>
<td>NON-EXEMPT</td>
<td>NO</td>
</tr>
<tr>
<td>NON-EXEMPT (hourly)</td>
<td>EXEMPT</td>
<td>YES</td>
</tr>
<tr>
<td>NON-EXEMPT</td>
<td>NON-EXEMPT</td>
<td>YES</td>
</tr>
</tbody>
</table>
Things to Think About

- Budget
- Job Description
- Timekeeping
- Morale
- Timeline
Budget

• Funding to reclassify or raise an employee’s salary above the threshold is at the department level
• Partner with your Business Manager
• Business justifications for salary adjustments
Can’t we just rewrite Job Descriptions?

• Job descriptions do not "make" employees exempt.
• The legal burden of establishing that a person is exempt rests with the employer
• Partner with Compensation to revise any job description
Timekeeping

• Training for employees, timekeepers, supervisors
• UC Financial Policy 2.7.2
  – All hourly-paid employees shall record job attendance through the university’s official timekeeping system(s) at the beginning and end of each work day.
• Master Work Schedules
  - Time worked = time paid
Employee Concerns

1. Is this a demotion?
2. Habits are hard to change
3. Will I still be able to advance my career?
4. What will the impact be to my benefits (e.g. vacation)?
Morale

• Have conversations with affected employees
  – A discussion checklist will be provided via HR and your VP Designee
• Assure them this is not a reflection on their performance
• Remind the employee this is a decision from the DOL – not UC
• Allow for timekeeping training
• Remind them that all time worked must be recorded
• Ask what concerns/questions they have
Employee Communications

• **Discussion Checklist**
  – Used by managers/supervisors in conversations with transitioning employees
  – Outlines items to discuss to ensure an understanding of transition to non-exempt
  – Signed by both manager & employee
  – Uploaded into On-base

• **Targeted Employee Letters**

• **Employee Educational Webinars**

• **FAQs**
Position Postings

Current Active Position Postings

- Current active positions in SuccessFactors cannot be modified.
- If you have a position that is currently posted that needs modified due to the position moving to a non-exempt status, please contact your Hiring Coordinator for instructions and assistance.

Future Position Postings

- Future positions you know will be nonexempt should be posted as such beginning immediately.
- For impacted positions, we advise adding the following language to the posting to help communicate the change.

Due to the recent change in the Fair Labor Standards Act (FLSA), this position will be a professional position paid at an hourly rate.
• **August 22nd** – last day to submit reclassifications and/or salary adjustments to Compensation

• **September 2nd** – Compensation sending out list of employees moving from Exempt (salary) to Non-exempt (hourly)

• **Month of September** – have conversations with affected employees & allow for training

• **September 9th** – Master Work Schedules due to VP Designees

• **October 1st** – UC go live
Important Reminders

• Exemption status may not be obvious; you cannot rely solely on a single factor.
  – Many positions include a variety of duties, some of which imply exemption, some which imply non-exemption.

• If there is reasonable doubt, we will err on the side of non-exemption.
Resources

- UC FLSA Website: [http://www.uc.edu/hr/compensation-department/flsa](http://www.uc.edu/hr/compensation-department/flsa)
- Recorded webinar of this presentation
- Attend Parts 2 and 3 of this training series
- Contact [Ken.Stidham@uc.edu](mailto:Ken.Stidham@uc.edu) or 556-4270
- Department of Labor FLSA Website
  - [https://www.dol.gov/whd/flsa/](https://www.dol.gov/whd/flsa/)
Q&A
FLSA Training for Supervisors: Part 1
For answers to our most commonly asked questions, visit our FAQ page at

http://www.uc.edu/hr/compensation-department/flsa