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.
Today’s discussion applies to employees who are not covered by a collective bargaining agreement or for whom the agreement contains no provision regarding this subject.
Part 1: FLSA Overview and Recent Updates
What is the FLSA?

- Also known as the Federal Wage and Hour Law.
- Regulates minimum wage, overtime, equal pay, recordkeeping, and youth employment.
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.

These changes make it possible for more employees to be deemed non-exempt, making them eligible to receive overtime compensation.
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.
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

“Exempt”
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")
2016 Salary Level Change

“White collar” exemption
• New minimum salary level to qualify

Current $23,660/yr. $47,476/yr.

Academic Administrative Personnel
• Subject to special alternative salary level

$35,000/year
• **Salary and hourly** = method of wage payment; they are not a classification

• **Classifications** = exempt and non-exempt; defined by the Department of Labor
What does this mean to you?

Exempt (salaried)
- Paid on a salaried basis monthly
- Not eligible for overtime
- Do not clock in and out

Non-Exempt (hourly)
- Paid on an hourly basis bi-weekly
- Eligible for overtime
- Must clock in and out to ensure paid for all time worked
Changes effective **October 1, 2016** at the University of Cincinnati:

**Why?**

**Payroll**
- Least impact from a payroll perspective to employees moving to bi-weekly

**Annual Benefit Enrollment**
- By implementing the change by 10/1, annual enrollment will properly reflect the employee’s bi-weekly costs for UC benefits
  - ESS will reflect the bi-weekly cost rather than the monthly cost
# Secondary Appointments

<table>
<thead>
<tr>
<th>PRIMARY POSITION</th>
<th>SECONDARY POSITION</th>
<th>OVERTIME PAYMENT?</th>
</tr>
</thead>
<tbody>
<tr>
<td>EXEMPT (salaried)</td>
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<tr>
<td>EXEMPT</td>
<td>NON-EXEMPT</td>
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<td>NON-EXEMPT (hourly)</td>
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<tr>
<td>NON-EXEMPT</td>
<td>NON-EXEMPT</td>
<td>YES</td>
</tr>
</tbody>
</table>
Part 2: Timekeeping
Recording Time

Instructions may be found on the UC HR FLSA Employee Resources page.
Hours of Work: Financial Policy 2.7.2

This policy applies to employees who are not covered by a collective bargaining agreement or for whom the agreement contains no provision regarding on-call pay for non-exempt classified and unclassified unrepresented staff.

Workweek

• Sunday at 12:00am through 11:59pm the following Saturday

Work Schedule

• Managers identify Master Work Schedule in UCFlex

• Can be changed to support a business need
Timekeeping: Financial Policy 2.7.2

This policy applies to employees who are not covered by a collective bargaining agreement or for whom the agreement contains no provision regarding on-call pay for non-exempt classified and unclassified unrepresented staff.

- Do not clock in until the time you are authorized to work which is designated by your regular work schedule or by any authorized overtime.
- You should not begin work until you have clocked in, and you should not continue to work after clocking out.
  - Clocking in early or clocking out late must be approved by your manager or supervisor.
Meal Time & Hours Worked

• Designated Meal Time is determined by the Master Schedule selected.
• While a ‘meal time’ is selected as part of the Master Scheduling process, this does not mean you are required to have lunch at the same time every day.
  — Instead, the length of the meal time is what matters: 30 minutes or more.
Meal periods are not considered time worked when you are relieved of duties for the purpose of eating a meal.

Working meal periods count as hours worked. For example, if you continue to answer the phone and assist students during your designated meal period, this time must be counted as hours worked because you were not fully relieved of your duties.

Any time worked during lunch must be reported to your designated Time Keeper.
What is a Timekeeper?

• Hourly employees have a specific timekeeper that manages their recorded hours. Refer to your supervisor for details about your timekeeper.

• Contact your timekeeper if you:
  – Forget to clock in or out,
  – Clock in or out later than scheduled,
  – Take a longer or shorter than scheduled lunch break, or
  – Work outside of normal scheduled work hours.

• Your timekeeper will contact you if there are any discrepancies in your timecard at the end of each pay period.
Best Practices for Timekeeping

• Keep track of your clock in and out times.
  • You are responsible for making sure you do not work overtime without prior approval.
  • Your supervisor or Timekeeper can also provide your cumulative hours for each week.

• Be diligent in following your work schedule and communicating any changes with your supervisor and Timekeeper.
Working from Home

• Do not work from home without prior approval from your Manager or Supervisor.
• Work performed in the office or away from the normal work premises or job site is still considered work time.
• Avoid “off-the-clock” work.
  – “Off-the-clock” work means work performed but not reported.
On Call Pay: UCHR Policy 14.04

This policy applies to employees who are not covered by a collective bargaining agreement or for whom the agreement contains no provision regarding on-call pay for non-exempt classified and unclassified unrepresented staff.

• You may be entitled to “on-call pay” when required to be “available” for work outside of normal work schedule.

• Please work with your supervisor to discuss any need for On Call pay in your unit.
  – Your supervisor will need to follow University procedures to ensure on-call pay is accurately reported and paid.
Callback Pay: **UCHR Policy 14.11**

This policy applies to employees who are not covered by a collective bargaining agreement or for whom the agreement contains no provision regarding on-call pay for non-exempt classified and unclassified unrepresented staff.

- You may receive callback pay when required to return to the workplace, outside of your normal work schedule, necessitating additional travel to and from work.
- Please discuss with your Manager or Supervisor.
Travel Time

• Normal travel from home to work is not considered worktime.

• Time spent in travel as *part of your principal activity*, such as travel from job site to job site during the workday, **must** be counted as hours worked.

• If you travel on a semi-regular or regular basis – you should discuss **flexible scheduling opportunities** with your manager or supervisor.

• Obtain approval from your manager or supervisor for any work-related travel needed.
Miscellaneous Pay Practices

This policy applies to employees who are not covered by a collective bargaining agreement or for whom the agreement contains no provision regarding on-call pay for non-exempt classified and unclassified unrepresented staff.

- **Shift Differential: UCHR Policy 14.14**
  - For all unrepresented, non-exempt employees, any hours worked from 6PM – 11PM (2nd shift) will have a shift differential of $.35/hour.
  - Any hours worked from 11PM – 6AM (3rd shift) will have a shift differential of $.45/hour.
  - You will be paid shift differential for hours actually worked, excluding vacation, sick leave, and compensatory time off.
  - Working a flex schedule for your own convenience does not meet the eligibility for differential pay.
Lectures, Meetings, and Training Programs

**Work time**
- Takes place during regular scheduled hours of work, or
- Required by the employer, or
- Nonattendance would adversely affect employment, or
- Disciplinary action will be taken against the employee for not attending.

**NOT Work Time**

All 4 criteria must be met:
- Outside of working hours, and
- Voluntary, and
- Not directly related to job, and
- No productive work during attendance.

FLSA Ref. Title 29, Part 785 of the Code of Federal Regulations, Section 785.27 and 785.28
Academic Classes During Work Hours

UCHR Policy 21.05

This policy applies to employees who are not covered by a collective bargaining agreement or for whom the agreement contains no provision regarding on-call pay for non-exempt classified and unclassified unrepresented staff.

- Employees may be permitted to enroll in academic courses during their normal scheduled working hours, with the approval of the supervisor/manager/director.
- The employee’s first responsibility is to fulfill his/her job obligations; supervisors are responsible for managing employee performance.
- Non-exempt employees who enroll in a course(s) during scheduled working hours are required to clock out/in when attending such courses.
- Discuss the option of using a flexible work schedules when possible with your manager/supervisor.
- Non-exempt employees may also use vacation, unpaid time, and/or comp time for missed work hours.
“I take classes every Wednesday and am away from my desk from 9:30 until 11. I understand I need to clock out when I go to class and clock in when return, but do I have options so I can maintain the full 40 hours of work per week?”
“I take classes every Wednesday and am away from my desk from 9:30 until 11. I understand I need to clock out when I go to class and clock in when return, but do I have options so I can maintain the full 40 hours of work per week?”

OPTIONS – to discuss with your manager/supervisor:
- You could extend your work day by 1.5 hours the day you are out of the office.
- You could use 1.5 hours of vacation time for each day you attend class.
- Your lunch hour could be shortened to 30 minutes every day of the week during the term - *Keep in mind you may need a new Master Work Rule for the term.*
Part 3: Overtime Pay
Overtime: UCHR Policy 14.03

This policy applies to employees who are not covered by a collective bargaining agreement or for whom the agreement contains no provision regarding on-call pay for non-exempt classified and unclassified unrepresented staff.

- Overtime pay = 1.5 times regular base hourly rate for all hours in active pay status in excess of 40 hours in a single week.
- Payment of overtime cannot be waived by employee or employer.
- Must be approved.
- Hours cannot be averaged over two work weeks.
  - Week 1 of pay period = 45 hours worked
  - Week 2 of pay period = 35 hours worked
  - Employee paid:
    - Week 1 = 40 hrs @ regular rate of pay, PLUS 5 hours at one and one half times the rate of regular pay
    - Week 2 = 35 hours @ regular rate of pay
OT Permission Needed:
UCHR Policy 14.03

This policy applies to employees who are not covered by a collective bargaining agreement or for whom the agreement contains no provision regarding on-call pay for non-exempt classified and unclassified unrepresented staff.

Employees must have permission from their supervisors to work overtime.

Important!

Overtime worked by the employee – whether it is authorized or unauthorized by the supervisor - must be recorded and compensated as time worked.
Compensatory Time (Comp Time)

UC HR Policy 14.03

This policy applies to employees who are not covered by a collective bargaining agreement or for whom the agreement contains no provision regarding on-call pay for non-exempt classified and unclassified unrepresented staff.

• May be earned by non-exempt employees in lieu of overtime pay for all hours per week in excess of 40 hours in active pay status.
• Recorded at one and one-half times the number of hours in excess of 40 hours in active pay status.
• Maximum Accrual: 240 hours.
Comp Time Example

- Works 42 hours during the week of November 14 – 18.
- Overtime is the default.
- If the employee chooses comp time and the request is approved by his supervisor, he has earned 3 hours of comp time than can be used in a future pay period.

Electing comp time rather than overtime must be requested in writing to the department; if not requested in writing – overtime is paid.
Compensatory (Comp) Time:

UC HR Policy 14.03

This policy applies to employees who are not covered by a collective bargaining agreement or for whom the agreement contains no provision regarding on-call pay for non-exempt classified and unclassified unrepresented staff.

- Not available for use until it appears on your earning statement.
- May be used at a time mutually convenient to both you and your Manager or Supervisor.
- When your status is changed from non-exempt to exempt, or you leave the University, all accrued comp time will be paid at your current rate of pay before the change of status.
- You may, at a later date, elect to receive overtime pay instead of comp time and/or to convert all or part of your comp time balance to pay.
Part 4: Payroll
Pay Frequency

• Non-exempt employees are paid on a bi-weekly (every other week) basis
• Checks are received on Tuesdays
  – There is a 10 day lag between the last day worked and when you are paid to allow time for payroll to process
• Biweekly payroll schedule on UC.edu
  – [http://www.uc.edu/content/dam/uc/af/controller/payroll/docs/2016_PAYROLLCALENDAR.pdf](http://www.uc.edu/content/dam/uc/af/controller/payroll/docs/2016_PAYROLLCALENDAR.pdf)
Payroll Transition

Friday September 30
- Final monthly pay (As exempt)

Saturday October 1
- On Master Schedule (*Middle of pay period*)
- Begin clocking in/out

Tuesday October 18
- Pay received for Oct 1-8 (*1 week*)

Tuesday November 1
- Pay received for Oct 9-22 (*first full 2 weeks of pay*)
Vacation Cash Out Option

- Eligible unrepresented employees transitioning from an exempt to non-exempt status may request a pay out of up to 40 hours of accrued vacation time, in whole hour increments, to be paid on the October 18, 2016 pay date.
- Must have sufficient vacation hours accrued as of 9/30/16 to cover the requested cash out.
- In order to request a vacation time cash out, you must complete the Vacation Cash Out Request Form (located on the UCHR FLSA website) and return to your Business Officer no later than September 16, 2016.
Optional ESS Changes for Payroll

- If you currently have a fixed amount going to a bank account and/or an additional amount being withheld for Federal and/or State taxes, you have the option to update those amounts as you wish between 9/23/2016 – 10/10/2016 to be effective on your 1st bi-weekly paycheck.
  - **IMPORTANT:** Do not update prior to 9/23/2016, or your last monthly paycheck will be affected.

**Monthly Paid**

- $65 per month into designated bank account
- = $780 per year

**Bi-weekly Paid**

- $30 per bi-weekly pay period = $780 per year
Employee Voluntary 403(b) / 457 Deductions

- Consider updating the amount to ensure consistency in the amount that is taken per bi-weekly pay period.
  - For example, if you currently have $100 deducted per month, you might wish to change that to a lower amount to account for the fact it will now be deducted bi-weekly.
  - If you do not make this change, you will have $100 deducted every 2 weeks.

- You are responsible for changing the amount deducted
  - For 403(b)’s, fill out a revised Salary Reduction Agreement form by September 30.
  - For 457’s, contact Ohio Deferred Compensation as soon as possible – (877) 644-6457.
How can I prepare for this transition?

• Plan ahead for new gross pay

• Review your budget and adjust for new check amounts and paydays

• Make adjustments withdrawals from your accounts to align with the new pay schedule
Part 5: Benefits
Benefits Eligibility

- Your eligibility for benefits is NOT impacted.
- Your eligibility would only be impacted if accompanied by another change, such as a change in FTE resulting in fewer hours worked.
Benefits Costs & Coverage

• Your cost for medical, dental, and Life Insurance will remain the same.
  – Cost for these coverages is determined by your annual base pay, which is unchanged.

• Your coverages remain the same.

• Your deductions for coverage will be taken on a bi-weekly basis rather than a monthly basis beginning with your October 18 pay date.
Retirement Contributions

• Retirement plan contributions will be deducted on a per pay (bi-weekly) basis.
• They are dependent upon your ‘covered earnings’ each pay.
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<th>Deduction Description</th>
<th>1st pay</th>
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</table>
Vacation Policy Update

- Effective October 1, 2016, the vacation policy for BOTH exempt and unclassified, unrepresented non-exempt employees will be the same.
  - Both will follow the current unrepresented exempt policy.
- You will continue to accrue the same hours per year; with the same maximum accrual.
Vacation Time (continued)
HR Policy 21-19

• Use ESS to request vacation time.

• If you take vacation time, you will report actual number of hours used.
  – Example: You leave 3 hours early on Friday for a vacation trip. You would report 3 hours of vacation time.
Sick Time

- Use ESS to record sick time.
- Sick time must be reported by the actual minutes taken.
  - Example: You clocked in 45 minutes late due to a doctor appointment in the morning. You will report 45 minutes of sick time.
- Discuss the option of flexing your time with your Manager or Supervisor.
Sick Time Accrual

- Full time unrepresented exempt and non-exempt employees accrue sick time on the same basis today, and this will remain the same.
  - Accrue 120 hours of sick time every year.
Winter Season Days

HR Policy 21.23

This policy applies to employees who are not covered by a collective bargaining agreement or for whom the agreement contains no provision regarding this subject.

• “Winter Season Days” refers to the week between the Christmas and New Year’s Day holidays during which time the university is closed.

• During the winter season days, non-essential employees will not be required to work.

• Employees designated as essential will be required to report to work and will receive:
  – Their regular rate of pay for the hours worked, and
  – Seasonal time on an hour-for-hour basis for hours worked during the winter season. Seasonal time may not be used until after the winter season day period has ended.
Holiday Pay

UCHR Policy 21.07

• A Non-exempt employee who is required to work on a University holiday is paid at one and one-half times the regular base rate of pay, or may elect compensatory time off at time and one-half.
Type your response as FACT or FICTION in the chat box and click “Send” or hit “Enter” on your keyboard.
FLSA: Fact or Fiction

“Our policy says overtime must be pre-approved. I’m going to just work as long as it takes to get the job done. It’s ok if I choose not to tell my manager and not record the time.”

FACT    FICTION
FLSA: Fact or Fiction

“Our policy says overtime must be pre-approved. I’m going to just work as long as it takes to get the job done. It’s ok if I choose not to tell my manager and not record the time.”

Whether overtime worked is with or without permission of the supervisor does not matter in terms of compensation, the time must be counted as time worked. Failure to record hours and or request supervisor permission to work overtime may result in disciplinary action.
FLSA: Fact or Fiction

“Wow! I worked 80 hours this past pay period - 36 hours the first week and 44 hours the second week. Because 80 divided by 2 is 40, I won’t receive any overtime pay because the hours average out to 40 per week.”
FLSA: Fact or Fiction

“Wow! I worked 80 hours this past pay period - 36 hours the first week and 44 hours the second week. Because 80 divided by 2 is 40, I won’t receive any overtime pay because the hours average out to 40 per week.”

- Will be paid 36 hours for week 1 and 40 hours plus 4 hours overtime for the 2nd week.
- Be sure to get approval to work overtime
- You can not average hours between weeks.
FLSA: Fact or Fiction

“If an employee goes to training outside of work hours, and it is required for their job, the time they spend at the training must be considered time worked and therefore paid.”

FACT

FICTION
“If an employee goes to training outside of work hours, and it is required for their job, the time they spend at the training must be considered time worked and therefore paid.”

If the time spent in training is considered a requirement for the ongoing employment relationship (that is, training is not voluntary), the hours in training must be considered time worked.
FLSA: Fact or Fiction

“As a non-exempt employee, if I choose to eat lunch at my desk and end up answering the telephone a few times, I don’t need to report this as time worked.”

**FACT**

**FICTION**
To be considered unpaid time, an employee must be relieved of duties during that period. If you answer phones while eating, you are performing employment-related tasks and this time must be reported as time worked.

FLSA: Fact or Fiction

“As a non-exempt employee, if I choose to eat lunch at my desk and end up answering the telephone a few times, I don’t need to report this as time worked.”

FACT

FICTION
FLSA: Fact or Fiction

“I was stuck in traffic on the way to work yesterday (Monday) and didn’t get in until 9:30, which is when I clocked in. My scheduled start time is 7:30. An option is to talk to my manager and see if I can flex my schedule so I can make up the time by extending my work day by 30 minutes Tuesday through Friday.”

FACT

FICTION
FLSA: Fact or Fiction

“I was stuck in traffic on the way to work yesterday (Monday) and didn’t get in until 9:30, which is when I clocked in. My scheduled start time is 7:30. An option is to talk to my manager and see if I can flex my schedule so I can make up the time by extending my work day by 30 minutes Tuesday through Friday.”

Flexing your schedule is an option once approved by your Manager or Supervisor.

- Because you came in late on a Monday and need to make up two hours of time, you could extend your work day by 30 minutes Tuesday through Friday.
- Note that the time must be made up in the same week.
- You could also use two hours of vacation time, if available.
Resources

- UC HR FLSA Website: http://www.uc.edu/hr/compensation-department/flsa
  - Recorded webinar of this presentation
  - FAQs
- Contact Ken.Stidham@uc.edu or 556-4270
- Department of Labor FLSA Website
  - https://www.dol.gov/whd/flsa/