



# Academic & Staff Personnel 2016 FLSA Pay Transition

**Manager Training  
November 2016**

# Agenda

- **What is the Change**
- **Who Will Be Classified**
- **Transition to Biweekly Pay**
- **Reporting Time Requirements**
- **Transition Assistance Vacation Cash Out Program**
- **Comp Time Off**
- **Compensable Time - Hours Worked**
- **Resources**

# What is the FLSA?

- The Fair Labor Standards Act (FLSA) is federal legislation from the Department of Labor. It includes general information concerning what constitutes compensable time under the FLSA.
- The Act requires that employees must receive at least the minimum wage and may not be employed for more than 40 hours in a week without receiving at least one and one-half times their regular rates of pay for the overtime hours.
- Jobs are classified as either exempt or non-exempt from the provisions of this legislation. Non-exempt are 'not excluded' from the provisions. These jobs must follow the FLSA requirements.

# What is the change?

- On May 18, 2016, the United States Department of Labor (DOL) published its final rule, which will significantly increase the number of individuals eligible for overtime pay under the Fair Labor Standards Act (FLSA), effective December 1, 2016.
- The final rule increases the salary level required for the executive, administrative and professional exemptions from \$455 per week (\$26,600 per year) to \$913 per week (\$47,476 per year)
- The salary level will increase automatically every three years, starting January 1, 2020 with a projected rate of \$51,168

# FLSA Duties versus Salary

- This new legislation has raised the salary threshold for a job to be considered exempt, it is not about the duties test. An employee's job could pass the duties test, but the employee's salary would not pass the salary test.
- Part-Time/Variable Paid Employees
  - The salary test is based on annual earnings versus annualized rate/salary, many higher earning employees are now becoming non-exempt and eligible for overtime.
  - For example, an employee earning \$100,000 per year as an annualized rate, but works only 40% time would be considered non-exempt.

# Jobs Exempt from this New Change

- The salary basis and salary level tests do not apply to certain professionals
  - Professors, lecturers, tutors, and other teachers, some academic administrative employees, doctors, dentists, medical residents, veterinarians, & attorneys
- Undergraduate and graduate students engaged in research or extracurricular activities
- Certain academic administrative personnel with the primary responsibility of advising and interacting with students

# Who Will Be Classified As Nonexempt

To comply with the DOL's new overtime rule, the University of California will take the following approach:

- Staff and academic personnel who do not qualify for the professional teaching exemption and who earn less than \$913 per week, will be reclassified as nonexempt and paid on an hourly basis.
- Junior Specialists will be reclassified as nonexempt
- Changes are effective 11/20/2016

# Assistant Specialists

- The minimum salary for the assistant specialist step 1 and step 2 will be raised to maintain their status as exempt employees.
- Effective Nov. 20, 2016, all current and future appointees at this level must be paid on the new UC salary scale.

	Current Salary Scale (effective 7/1/16)	New Salary scale (effective 11/20/16)
Assistant Specialist Step 1	\$43,428	\$47,484
Assistant Specialist Step 2	\$46,260	\$48,492



# Post Docs

- All full-Time Postdocs will continue to maintain their exemption level.
  - Some part-time post docs may need to be converted to non-exempt
- Salary scales are being increased to a rate above the new Department of Labor salary threshold to maintain exempt status
- Postdocs currently follow the NIH/NRSA Stipend scale and the NIH recently announced and published a projected scale for FY 2017 to be effective 12/1/16

# UPTE Covered Jobs/SRA 2

UC Office of the President reached an agreement with UPTE about how to implement these FLSA changes

## Current Practice:

- Campuses are classifying SRA2 jobs as both exempt and non-exempt based on the duties test
- UCSF has SRA2 jobs in both exempt and non-exempt based on the duties test

## What is Changing?

- All SRA 2 Exempt Jobs: Managers are being given the option to increase weekly earnings to at least \$913 per week to meet the salary threshold to remain exempt

# UPTE Covered Jobs

- Other UPTE Jobs Impacted by FLSA: Increases may be given if \$10,000 or less is needed to meet threshold
- Any pay increases for UPTE represented jobs are effective 12/1/2016
- All UPTE represented employees impacted by this FLSA legislation is eligible for the Vacation Payout Program as long as:
  - On payroll as of 10/1/2016
  - Employment on active status on 11/20/2016

# Career Tracks-Policy Covered

Career  
Tracks Job  
Title  
attributes

- Exemption Status (Overtime Eligibility)

**Job Titles in Career Tracks Structure are assigned an FLSA Job Duties Exemption Status as follows:**

Non Exempt	Exempt
Entry and Intermediate Professionals (P <sub>1</sub> – P <sub>2</sub> ), Confidential and non represented Operational and Technical positions (O&T 1 – 3)	All other Professionals, Supervisors and Managers
Are not “exempt” from overtime pay requirements – they are paid for each hour worked	Are considered “exempt” from overtime regulations – they are paid for the work performed, not by the hour
And are paid bi-weekly	And are paid monthly

# Pay Increase?

Employee Scenario	Less than \$10,000 Needed to Meet Threshold of \$47,476	More than \$10,000 Needed to Meet Threshold of \$47,476
Full-Time (FTE) Employees in Exempt Job with Salary Less than \$47,476	Increase base pay to at or above \$47,476.	Employee's FLSA classification will change to non-exempt.
Less Than 100% FTE Employees in Exempt Job with <u>Annual Earnings</u> Less Than \$47,476	Increase pay or increase FTE % to bring <u>Annual Earnings</u> at or above \$47,476.	Employee's FLSA classification will change to non-exempt.
Fluctuating FTE % and Variable Paid Employees in Exempt Job with <u>Annual Earnings</u> Less Than \$47,476	Increase pay or increase FTE % to bring <u>Annual Earnings</u> at or above \$55,000. Since variable paid employees could easily fluctuate below the threshold in a particular week (\$913 per week needed), the minimum to be exempt is \$55,000 to ensure threshold is met.	Employee's FLSA classification will change to non-exempt.

# Transition to Biweekly Pay

Dec 1, 2016

- Last monthly paycheck issued for work performed November 1 - 19, 2016

Dec 14,  
2016

- Paycheck for work performed from November 20 - December 3, 2016

Dec 28,  
2016

- Paycheck for full biweekly period of December 4 - 17, 2016

# Pay Cycle Comparison

	Monthly Pay Cycle	Biweekly Pay Cycle
Pay Cycle	1 <sup>st</sup> to last day of the month	Sunday to Saturday, two-week period
Paychecks per Year	12	26
Paycheck Date	1 <sup>st</sup> of the month	Every other Wednesday
Pay for Overtime	Paid one month after earned, or in a separate check	Paid in biweekly check when earned
Leave Usage	Reported one month in arrears	Reported in the current pay period
HBS Schedule	No schedule. 8 hours per day/40 hours per week pre-populated into system.	If regular schedule, then pre-populate with work schedule. If variable schedule, then employees enter time worked each week. If regular schedule not worked, then employee should modify with schedule worked.

# Payroll Deductions

- **MONTHLY Paychecks**
  - All deductions taken once a month
  - The net of the paycheck is generally the same every month
- **BI-WEEKLY Paychecks**
  - 24 Paychecks a year - 2 per month
    - Percent based deductions are deducted from every paycheck
    - Flat dollar deductions are divided and deducted from each biweekly paycheck
  - 2 pay checks (Deduction Holidays) – the net will differ
    - only percent based deductions are deducted



# Flat Dollar Amount Deductions

## Flat Deductions Taken Twice Per Month (24 paychecks)

<b>Insurance</b>	<ul style="list-style-type: none"><li>• Health Insurance</li><li>• Life &amp; Dependent Life</li><li>• Accidental Death &amp; Dismemberment</li><li>• Supplemental Disability</li><li>• Health Care/Dependent Care</li></ul>
<b>Retirement</b>	<ul style="list-style-type: none"><li>• 403(b) or 457(b) if Flat Deduction* (for example, \$100/month)</li></ul>
<b>Other</b>	<ul style="list-style-type: none"><li>• Legal Insurance</li><li>• California Casualty</li><li>• Scholarshare</li><li>• Loans – Credit Union &amp; 403(b) loans</li><li>• Transit and Parking, etc.</li></ul>

# Percentage Based Deductions

% Deductions Based on Pay (every paycheck)	
<b>Taxes</b>	<ul style="list-style-type: none"><li>• Federal</li><li>• State</li><li>• OASDI (Social Security)</li><li>• Medicare</li></ul>
<b>Retirement</b>	<ul style="list-style-type: none"><li>• UC Retirement Plan (UCRP)</li><li>• 403(b) or 457(b) if % Deduction* (for example, 3% of every check)</li></ul>
<b>Other</b>	<ul style="list-style-type: none"><li>• Union Dues / Fair Share</li><li>• Garnishments</li></ul>

*\*Employees elect 403(b)/457(b) as percentage (%) amount or flat amount*

# Deduction Holidays

- There are two times a year when flat dollar deductions are not deducted. Since there are normally 26 biweekly paydays per year and only 24 are needed each year to cover deductions. They are referred to as Deduction Holidays
- A Deduction Holiday occurs when three biweekly pay period end dates fall within the same month

# Transition Assistance Vacation Cash Out Program

<b>What is it?</b>	The University is offering a one-time opportunity for you to cash out up to 80 hours of accrued vacation leave.
<b>What is required?</b>	You must have the hours in your vacation bank.
<b>How will the vacation cash out be calculated?</b>	Cash out value = (hourly rate x vacation hours). It will be paid as part of your normal paycheck where it will be subject to taxes and percentage based deductions.
<b>When can I request it?</b>	Check with your local payroll office about the program request period.
<b>How many requests can I submit?</b>	Maximum of one request during the program request period.
<b>When do I submit the form and receive payout?</b>	Payout on 12/1, Submit to HR Generalist by 11/14 Payout on 12/14, Submit to HR Generalist by 11/28

# Compensable Time – Hours Worked

- The workweek ordinarily includes all time during which an employee is necessarily required to be on the employer's premises, on duty or at a prescribed work place.
- "Workday", in general, means the period between the time on any particular day when such employee commences his/her "principal activity" and the time on that day at which he/she ceases such principal activity or activities.
- The workday may therefore be longer than the employee's scheduled shift, hours, tour of duty, or production line time.

# Compensable Time – Hours Worked

- Work not requested but suffered or permitted to be performed is work time that must be paid for by the employer.
- For example, an employee may voluntarily continue to work at the end of the shift to finish an assigned task or to correct errors.
  - The reason is immaterial
  - The hours are work time and are compensable
- Areas that we will discuss in more detail include waiting time, on-call, rest/meal period, travel time, and lectures/meetings/trainings

# Compensable Time – Waiting Time

- Whether waiting time is hours worked under the Act depends upon the particular circumstances.
- Generally, the facts may show that the employee was engaged to wait (which is work time) or the facts may show that the employee was waiting to be engaged (which is not work time).
- “Engaged to wait“: A secretary who reads a book while waiting for dictation.
- “Waiting to be Engaged“: A pizza delivery driver who is free to go see a movie before starting a second shift later in the day

# Compensable Time – On Call

- An employee who is required to remain on call on the employer's premises is working while "on call."
  - An employee that receives calls several times a night that require the employee to look up information on a computer system
- An employee who is required to remain on call at home, or who is allowed to leave a message where he/she can be reached, is not working (in most cases) while on call.
  - Additional constraints on the employee's freedom could require this time to be compensated.
  - An employee is asked to carry a work cell phone to answer a brief (5 minutes or less) question that may come up from a customer (very infrequently)



# Compensable Time – Rest Periods

- Rest periods of short duration, usually 20 minutes or less, are common in industry (and promote the efficiency of the employee) and are customarily paid for as working time.
  - These short periods must be counted as hours worked. For example, a 15 minute coffee break
- Unauthorized extensions of authorized work breaks need not be counted as hours worked when the employer has expressly and unambiguously communicated to the employee that the authorized break may only last for a specific length of time
  - Non-Compensable: Employee goes on 30 minute shopping trip.

# Compensable Time – Meal Periods

- Bona fide meal periods (typically 30 minutes or more) generally need not be compensated as work time.
- The employee must be completely relieved from duty for the purpose of eating regular meals.
  - For example, an employee leaving the premises for a lunch break and not receiving phone calls from employer during that time to answer questions
- The employee is not relieved if he/she is required to perform any duties, whether active or inactive, while eating.
  - Employer hosts a mandatory, or implicitly mandatory team-building event over employee lunch period

# Compensable Time –Meetings/Trainings

- Attendance at lectures, meetings, training programs and similar activities need not be counted as working time **only if four criteria are met, namely:**
  1. It is outside normal hours
  2. It is voluntary
  3. Not job related
  4. No other work is concurrently performed.
- **Compensable:** Employee attends a training class that will help her improve her excel skills in her role as a financial analyst. It is offsite.
- **Non-Compensable:** There is a **voluntary** team walk to raise money for charity.

# Compensable Time –Travel Time

- **Home to Work Travel:** An employee who travels from home before the regular workday and returns to his/her home at the end of the workday is engaged in ordinary home to work travel, which is not work time.
- **Non-Compensable:** Employee travels 30 minutes to her place of employment.

# Compensable Time –Travel Time

- **Home to Work on a Special One Day Assignment in Another City:** An employee who regularly works at a fixed location in one city is given a special one day assignment in another city and returns home the same day.
  - The time spent in traveling to and returning from the other city is work time, except that the employer may deduct/not count that time the employee would normally spend commuting to the regular work site.
  - For example: Employee's regular commute to work 30 minutes. Commute to one day assignment is 2 hours. Employee is paid 1.5 hours of commute time/compensable time to and from one day location

# Compensable Time –Travel Time cont.

- **Travel Away from Home Community:** Travel that keeps an employee away from home overnight is travel away from home. Travel away from home is clearly work time when it cuts across the employee's workday.
  - The time is not only hours worked on regular working days during normal working hours but also during corresponding hours on nonworking days.
  - For example: Employee works 8 hours (8-5 p.m., Monday thru Friday) on normal work days
    - Employee travels out of town for business on Tuesday thru Saturday for 8 hours/day.
    - Employee works at home office on Monday
    - Employee paid for 8 hours/day for Mon.-Sat.
    - 48 hours, 40 hours of regular and 8 hours of OT

# Compensable Time –Travel Time cont.

- As an enforcement policy, the Department of Labor will not consider as work time that time spent in travel away from home outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile.
  - For example, if employee works 8-5 p.m. (8 hours) and the airplane flight gets in town at 6 p.m. , the employee is only compensated for regular 8 hours
- **Travel That is All in a Day's Work:** Time spent by an employee in travel as part of their principal activity, such as travel from job site to job site during the workday, is work time and must be counted as hours worked.
  - A UC employee travelling from UC Berkeley to UCSF for work is compensated for travel time

# Compensable Time – Other Areas

- Consult with your HR Generalist: Usually require additional information and discussion with HR.
  - Sleeping Time
  - Donning/Doffing Equipment
  - Working Remote/Checking Emails Offsite
- Ensure compliance with local bargaining unit agreements regarding interpretation of compensable time.
- Additional Information on compensable time, see link below:
  - <https://www.dol.gov/whd/regs/compliance/whdfs22.pdf>



# How is Manager Impacted

- Understand what is compensable time
  - Monitor compensable time as defined by FLSA legislation such as travel time, donning equipment, on-call, rest/meal period, and training
  - Working remote and checking emails when 'off the clock'
- Begin approving bi-weekly timesheets
  - Any over-time work must be approved by manager in advance of employee working over-time
  - Department is responsible for funding any over-time worked
  - Assess if Compensatory Time Off (CTO) can be offered



# Time Reporting Obligations

- Non-exempt, overtime eligible employees must track and record the number of hours worked on a daily basis and the total number of hours worked during a workweek
- Supervisors may be asked to review and approve time records at the end of a workweek or pay period
- Employees follow department procedures regarding timekeeping and applicable University policies

# Comp Time Off

- **Academic**

- Comp Time Off will not be allowable
- Employees will be paid overtime

- **Staff**

- Follows bargaining unit agreement
- Follows department practices
- Employee is paid the same number of hours if either comp time or over-time
- Employee selection when converting to non-exempt using CTO Election Form

[https://srs.ucsf.edu/hr.php/x/files?F=1&cms\\_id=2757](https://srs.ucsf.edu/hr.php/x/files?F=1&cms_id=2757)

# How is an employee impacted?

- Paid by the hour for each hour worked
  - Eligible for overtime over 40 hours in a week
  - Obtain manager approval before working overtime
  - Understand what is compensable time by attending FLSA training
- If Compensatory Time Off is allowed, then selects Compensatory Time Off (CTO) option in lieu of over-time pay using election form
  - Varies by academic, post-doc, staff, bargaining unit, and position

# How is an employee impacted?

- Receive your paycheck biweekly as an hourly paid employee. See link for biweekly pay schedule.
  - [http://controller.ucsf.edu/payroll/files/UCSF\\_BW\\_Pay\\_Calendar\\_2015-16.pdf?1516](http://controller.ucsf.edu/payroll/files/UCSF_BW_Pay_Calendar_2015-16.pdf?1516)
- Holiday Pay
  - Non-Exempt employees must be at least 50% time to be eligible for holiday pay
  - See link below for details
  - <http://policy.ucop.edu/doc/4010406/PPSM-2-210>

# Employee Transition Tips

- Review financial situation and determine income needs based on a biweekly pay schedule
- Review scheduled payments and make necessary changes to automatic payments you have scheduled with your financial institution
- Review your current tax withholding elections to make any necessary changes through AYSO.

# Resources

- Website location with links to recent HR Update articles, UCOP article, memos/letters issued from UCOP, policy/process information, FAQ's and forms. [Link to More Info](#)
- HBS Training Dates
  - 11/29 at 10:00 a.m.
  - 12/1 at 2:00 p.m.
- [How to Find Your HR Representative](#)