

# FLSA Exemption Classification

## Frequently Asked Questions (FAQ)

**Q: What is the Fair Labor Standards Act (FLSA)?**

**A:** The Fair Labor Standards Act (FLSA) is a federal law that is administered by the U.S. Department of Labor (DOL) which is intended to protect workers against certain unfair pay practices of work regulations. FLSA establishes exemption status, minimum wage, overtime pay, recordkeeping, and child labor laws. Jobs are either classified as “exempt” or “non-exempt” from FLSA regulations. The non-exempt classification indicates eligibility for overtime pay when overtime is worked. FLSA requires employers to pay employees overtime pay (one and one-half times the employee’s regular rate of pay) for all hours worked over 40 in a workweek unless the employee is “exempt” from overtime as defined in the regulations.

**Q: Why is the FLSA exemption classification of some jobs changing?**

**A:** As part of the transition to a market-based compensation program, the University has created uniform and consistent job descriptions and reviewed the exemption classification of each job. In a few instances, the review resulted in a change of the FLSA exemption classification.

**Q: How is the FLSA exemption classification of a job determined?**

**A:** Generally, to be classified as exempt (from being paid overtime), a job must meet all three (3) of the following:

- Must be paid on a salary basis (not subject to a reduction in hours worked)
- Salary must meet the minimum threshold of \$35,568 annually (\$684/week). Note: the salary level test doesn’t apply to certain groups of jobs
- Primary duties of the job must meet one of the FLSA exemption duties tests (criteria established by the Department of Labor)

**Q: If the FLSA exemption classification of my job is changing, is my base pay rate changing?**

**A:** No, your base pay rate will not be changing. If the FLSA exemption classification of your job is changing from:

- Exempt to non-exempt, your annual base pay rate will be converted to an hourly rate which is your annual base pay rate divided by the number of full-time hours worked per year, which is typically 2,080 hours for a full-time employee. For example, if your annual salary is \$37,440, your hourly rate would be \$17.00 (\$37,440/2,080).
- Non-exempt to exempt, your current hourly base pay rate will be converted to an annual base pay rate which will be paid to you on a biweekly basis. For example, if you are a full time employee and your hourly base pay rate is \$17, your annual salary would be \$37,440 (\$17 X 2,080).

**Q: Are grant-funded positions subject to the FLSA?**

**A:** Yes, funding source does not affect the FLSA exemption classification.

**Q: Are teaching faculty and lecturers impacted by the FLSA exemption classification change?**

**A:** Teachers are exempt under FLSA regulations, regardless of their annual/weekly salary, if their primary duty is teaching, tutoring, instructing or lecturing in the activity of imparting knowledge. The University's faculty and lecturers who meet the primary duty requirement qualify as exempt under the teaching exemption.

**Q:** **I am paid a salary and my job title is manager. Am I exempt from overtime pay?**

**A:** Job titles do not determine the FLSA exemption classification, and the fact that an employee is paid on a salary basis does not alone provide sufficient grounds to exempt the employee from the FLSA's minimum wage and overtime regulations. For an exemption to apply, an employee's specific job duties and salary must meet all of the applicable requirements provided in the DOL's regulations.

**Q:** **Can I or my department opt out of the FLSA changes if we want to handle things differently?**

**A:** No, these changes are federal law that apply to all employees working in the United States.

**Q:** **If the FLSA exemption classification of my job is changing what will I do differently related to hours worked after the change?**

**A:** If your job is being reclassified from:

- Exempt to non-exempt, you must record all of your hours worked using the method outlined for non-exempt employees in your department. Non-exempt employees record hours worked and time-off in quarter hour (15 minute) increments instead of half and full day increments. Your leader can provide you with more detailed information and you can reference information related to timekeeping on the Payroll Timekeeping website at [Payroll Timekeeping](#) . It is strongly encouraged that you record your hours worked on a daily basis so you have a better understanding of when you are approaching overtime.
- Non-exempt to exempt, instead of reporting the hours that you work on a daily basis, you will only report full or half days in which you are absent from work by entering leave hours (i.e, vacation or sick leave) on your leave report, typically, 4 or 8 hours increments, depending on your FTE.

If the exemption classification of a job is changing, Human Resources will notify the supervisor and the employee. They will also notify the payroll department and they will make all necessary adjustments to timekeeping/leave reporting.

**Q:** **If the FLSA exemption classification of my job is changing from non-exempt to exempt and I have earned compensatory time, what will happen to those hours?**

**A:** Since exempt employees are not eligible to earn compensatory time ("comp time"), any compensatory time balance you may have earned will be paid to you. The date on which the payment will occur will be communicated to you in advance. You may review your leave balances on the employee self-service dashboard in myWSU.

**Q:** **Do I record my time differently if I am classified as a USS or a UP employee?**

**A:** The classification of USS or UP does not affect or correspond to exempt or non-exempt status. A USS or UP employee could potentially be in an exempt or non-exempt status. All employees record time using the methodology as described above.

**Q:** **When is an employee entitled to overtime?**

**A:** Non-exempt employees earn overtime (time and one-half) when they physically work more than 40 hours in a workweek (Sunday – Saturday). Please note that some departments allow

employees to accrue comp time at a rate of one and one-half hours for each overtime hour worked, in lieu of overtime pay in accordance with FLSA regulations for employees of state or local government agencies. If an employee works more than eight (8) hours in a day, they don't necessarily earn overtime. If a workweek includes a paid holiday or an employee uses other leave time, the employee would only earn overtime if they physically work more than 40 hours in the workweek. Exempt employees are not eligible to earn overtime.

**Q: Am I required to gain approval before I work overtime?**

**A:** Yes, leaders are required to approve any work for non-exempt employees that is in excess of their regular work schedule. Your leader will let you know how your department manages requests and approval to work over 40 hours in a workweek.

**Q: What activities are considered "work time"?**

**A:** FLSA defines work time as all time spent performing job related activities which genuinely benefit the employer, which the employer "knows or has reason to believe" are being performed by an employee, and which the employer does not prohibit the employee from performing. These can include activities performed during "off-the-clock" time, at the job location or elsewhere, whether "voluntary" or not.

**Q: Can my leader refuse to pay or ask me to record my hours worked over 40 in a different workweek or pay period?**

**A:** No, you must record all hours worked on your timesheet when you actually work them and be paid for all hours recorded. Your leader will set expectations with you on the approval process you must obtain to be authorized to work over 40 hours in a workweek. Your leader can hold you accountable for not following proper procedures.

**Q: I typically work more than 40 hours in a workweek. Am I able to continue to do this by volunteering the hours over 40 in a workweek?**

**A:** No, you are not able to volunteer your time for hours over 40 in a workweek. Any time you are performing work for the University, even something as simple as checking e-mail from home or working through your lunch period, it is considered work time and you must record and be paid for the hours.

**Q: Can my hours be "flexed" over a specific time period to avoid overtime?**

**A:** Hours can only be flexed during the same workweek that they are worked in (Sunday-Saturday), not spread over the next workweek or over multiple workweeks.

**Q: If my job is being changed to non-exempt, does the University no longer consider me to be a "professional" employee?**

**A:** Absolutely nothing has changed regarding the value and importance of the work you perform or how the University values your contribution. The University is simply complying with the FLSA regulations that establishes the way you must be paid.

**Q: If I have a question not covered in this FAQ document, who do I contact?**

**A:** You should first contact your leader as they may be able to answer your question. If your leader is not able to answer your question, you can send your question to [marketbasedcomp@wichita.edu](mailto:marketbasedcomp@wichita.edu).