

Frequently Asked Questions for Managers and Supervisors

What should I discuss with my employees who are becoming eligible for overtime?

Managers and supervisors may need to set new expectations and change department schedules or behaviors in order to manage hours worked within budgets. It is important to clearly communicate any unit standards or business processes to newly non-exempt employees, especially if their duties will not be changing.

Considerations include:

- Guidelines for using mobile devices outside of normal work hours to respond to calls or emails
- Expectation to obtain approval for overtime
- How to track and report time worked and exception time
- Adjustments to work schedules when work must occur outside of normal business hours

Communicating a clearly defined overtime approval process to your non-exempt employees can assist you in managing both time and budget resources. However, while non-exempt employees should seek pre-approval before working overtime, it is important to remember that all overtime must be paid, whether pre-approved or not.

The employees in my unit are used to having flexibility in their work hours. Can this continue if some or all of them become non-exempt?

Yes, as long as the employee works the required hours and is paid appropriately. An example would be if a typical schedule is 7.5 hours a day during the day, and the department needs an employee to work a special event for 4 hours during the evening. The schedule may be changed to give the employee 4 hours of time off at another time during the same workweek. This kind of change is referred to a pre-approved flex-schedule.

We highly recommend documenting these schedule agreements to ensure that both the employee and the department are aware of the approved schedule.

Does an employee need to be paid for overtime if I did not approve it?

Yes. If overtime hours are worked by non-exempt employees, even if unapproved, they must be compensated. Therefore, it's important to establish overtime rules and communicate them to everyone in your unit. The guidance for affected staff reiterates that they should seek approval before working any overtime, but you can help by establishing rules in your unit for seeking approval in advance for projects or events that may be deadline driven and require additional hours. Since more employees in your unit may now be paid for overtime than may have previously been the case, you will need to consider this impact when planning your salary budget.

Does time spent answering emails or using a mobile phone for work outside of normal hours count towards overtime for non-exempt employees?

For non-exempt employees who respond to emails or calls outside of normal work hours or while on lunch breaks on a "regular" basis, that time is counted as work time for overtime purposes. If a non-exempt person responds to emails or calls "very occasionally," then court cases have considered that to be "de-minimis" and therefore not counted for overtime purposes. However, supervisors have discretion to establish overtime approval processes. If an employee continues to work overtime without supervisor approval, then the supervisor could begin taking possible disciplinary action with the employee.

Can I require overtime for non-exempt employees?

Yes. Supervisors can require overtime work when necessary and with pay. Whenever possible, you should give as much advance notice as possible to employees.

Who decides how the overtime is paid?

If the overtime is mandated, then the employee has the right to insist on monetary payment. If the overtime is offered, then the manager or supervisor has the right to offer it with the stipulation that it will be "paid" in compensatory time off at the rate of time and a half.

How will Vacation Accrual Differences be handled?

Rates of vacation accrual are determined by university policy, not by the FLSA. These policies did not change in response to the recent FLSA regulation changes.

The university made a special policy exception to “grandfather” the current accrual rate for only those staff members who were required to be reclassified to non-exempt for the December 1, 2016 effective date for as long as they remain continuously employed in a position that continues to meet the FLSA required duties test.

How will vacation accrue for new employees on or after December 1?

Vacation will accrue at the standard rates based on the appointment and years of service. Non-exempt employees will accrue based on the non-exempt rates and exempt employees will accrue at the exempt rates as outline in the University’s vacation policies.

Are part-time employees impacted by the 2016 FLSA changes?

Yes. The revised FLSA salary threshold is \$47,476 annually or \$913 per week. Part-time employees may be considered exempt under the FLSA if they make at least \$913 and their duties meet the exemption test.

What happens if employees move from full-time to part-time?

After December 1, 2016, if an exempt employee moves from full-time to part-time, he or she must be reclassified as non-exempt if the change causes the compensation rate to fall below \$47,476. Managers should be sure to discuss this implication with any employee considering a reduced schedule.

Can a non-exempt employee waive overtime?

No, employees do not have the option of waiving the legal requirements.

Exempt vs. Non-Exempt Status

The FLSA is designed to protect employees and ensure that standards are in place with respect to pay and hours worked.

For individuals impacted by these changes, there may be a period of adjustment to new timekeeping and pay procedures, as well as changes in scheduling and flexibility related to a new FLSA status.