

FREQUENTLY ASKED QUESTIONS ON FLSA CHANGES FOR 2025

1. What is the FLSA?

FLSA stands for the Fair Labor Standards Act of 1938 (“the FLSA”), the statute which contains the federal wage and hour laws for which employers with workers within the United States must comply. The FLSA sets the criteria to determine which employees are entitled to overtime based on duties performed, level of responsibility, decision-making authority and level of compensation. The FLSA also establishes the rules that employers must follow relating to payment of overtime. Specifically, the FLSA requires that non-exempt employees receive pay for all hours worked and overtime pay of 1.5 times their regular rate of pay for all hours worked over 40 in a fixed seven-day period.

At Southern Illinois University Carbondale, overtime for non-represented non-exempt employees is earned after 7.5 hours in a day, or 37.5 hours in a week.

2. What does it mean to be exempt or non-exempt under the FLSA?

Exempt employees are employees who are ineligible for overtime pay for hours worked over 40 in a workweek (a workweek is a fixed seven consecutive calendar days). Exempt employees are expected to work as much time as is needed to complete work without an expectation of overtime or additional pay. As a result, exempt employees are paid on a salaried, not hourly, basis. In addition, in most cases (as discussed below), exempt employees must perform certain types of duties, as defined in the FLSA, in order to be exempt and salaried.

The term “non-exempt” refers to employees who are not “exempt” from the federal overtime rules and who must receive pay for all hours worked and be paid “time and a half” (i.e., 1.5 times the employee’s regular rate of pay) for all hours worked over 40 in a fixed seven-day period.

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3. How do I know if a position is exempt or non-exempt?

Under the FLSA, with a few limited exceptions (these exceptions are discussed in FAQ 4), exempt status is determined based on meeting **each** of the following tests:

Salary Basis Test. Employee must be paid on an annual salary basis; **and**

Minimum Salary Test. The FLSA’s minimum salary threshold is \$684.00 per week or \$35,568.00 annually; **and**

Duty and Discretion Tests. The employee also must perform duties that meet the Department of Labor’s definition of an executive, administrative, professional, or computer professional.

The requirements to meet the duties and discretion tests are quite specific and judged on a case by case basis.

4. Why are some classifications considered variable rather than exempt or non-exempt?

Positions are either exempt or non-exempt for overtime compensation under FLSA. Historically, SIUC has designated all Administrative/Professional positions and some civil service classifications as exempt. Another group of civil service classifications are designated as non-exempt. There is also a group of civil service classifications that SIUC has considered to be variable. This means that the exempt/non-exempt designation was determined on a case by case basis, depending on the duties and responsibilities of the position.

5. What factors are used in making the decisions regarding variable positions and if they are exempt vs. non-exempt status?

The duties and responsibilities of the position as well as the salary level assigned to the position are the main factors considered in determining overtime eligibility status. The Department of Labor is responsible for publishing rules for these determinations and several fact sheets are available on their website.

6. What are the limited exceptions of types of exempt employees who do not have to meet all three of the above requirements?

Physicians, lawyers, and employees whose primary duty is teaching meet the duties and discretion tests but who do not otherwise have to meet the FLSA minimum salary threshold to be considered exempt.

7. What changes are being made and who will be impacted?

On April 26, 2024, the U.S. Department of Labor published a final rule which raised the minimum salary threshold for exempt positions from \$35,568 per year to \$43,888 per year. Southern Illinois University Carbondale made significant changes to numerous positions across campus effective July 1, 2024 in order to comply with this new rule. However, on November 15, 2024, the U.S. District Court for the Eastern District of Texas vacated this final rule. As a result of this court's decision, the minimum threshold for exempt positions has reverted back to \$35,568 per year. The university will convert affected positions to exempt as appropriate under the guidelines.

This change means that most non-exempt employees who met the previous minimum salary threshold of \$35,568/year, will be converted to exempt employee status effective March 1, 2025. Affected employees will receive email communication regarding this change.

8. Does the term “non-exempt” mean “non-professional”?

No. The term “non-exempt” simply means that the employee is eligible for overtime payments. You continue to be a professional in your job. It is mandated by the federal government for payment purposes and does not reflect upon your status as a professional.

9. Does it matter if the employee is AP or CS?

All positions are subject to FLSA overtime regulations unless exempted. The Department of Labor does not see any distinction between civil service or administrative/professional staff positions. They will refer to the duties assigned to the positions and whether or not they meet the salary threshold, if applicable.

10. What impact will the change from non-exempt to exempt have on employee’s benefits?

Currently, the amount of vacation accrued is different for exempt and nonexempt employees. Employees who are being converted from non-exempt to exempt status will accrue vacation in accordance with university policy. The specific information relating to accrual rates can be found in the [Employee Handbook](#). Employees will not see a decrease to their vacation accrual.

11. Is there any possibility of a classification change to positions switched to exempt status?

There will be no automatic changes to classifications or titles as a result of changing from non-exempt to exempt under FLSA.

12. Are you going to notify the employees that have been changed to exempt?

Employees who were changed from non-exempt to exempt were notified via email. Fiscal officers of these employees were also notified.

13. Does the payroll on which the employee is paid matter in determining overtime eligibility?

No, the duties of the position and the salary are the determining factors in FLSA overtime status.

14. Are union represented employees covered by FLSA and overtime rules?

Yes, all positions are covered by FLSA overtime rules. However, some positions are exempt from the rules and some are not.

15. What if the job description was inaccurate and did not accurately reflect job duties?

Position descriptions can be updated and reviewed for potential change in status under FLSA overtime rules.

16. Are work hours tracked and reported for exempt employees?

Yes, employees need to appropriately and accurately record work time and non-work time (e.g., sick, vacation, etc.) on the applicable time sheet. Exempt employees should use the [“Exempt AP and Semi-Monthly Civil Service Employee Time Recording Sheet”](#) form to report their work hours.

17. Is there a reason that exempt employee are required to track time?

The State Officials and Employees Ethics Act requires all university employees to submit time sheets documenting the time spent each day on University business. Actual hours worked and/or any absences must be reported.