



## FAQ's for Managers - FLSA

### ❖ **What are the new regulations to the Fair Labor Standards Act (FLSA)?**

The new regulations will increase the minimum salary requirement for employees who are considered exempt from \$23,660 a year (\$455 per week) to \$47,476 a year (\$913 per week). This means anyone making below \$47,476 a year will be considered nonexempt and guaranteed overtime pay or compensatory time in lieu of payment, which is the common practice at Lander.

The salary threshold for Highly Compensated Employees will increase from \$100,000 per year to \$134,004 per year, but these employees still must satisfy a minimal duties test.

### ❖ **When does the new ruling take effect?**

The new rules and changes will be effective December 1, 2016.

### ❖ **Are there any employees who are not subject to the new salary threshold?**

Yes, doctors, teachers(faculty), and attorneys are not subject to the new salary threshold.

### ❖ **Are there any exemptions for institutions of higher education?**

Yes, the law provides specific exemptions which the institution can use for learned professionals that hold certain licensure, degrees, or credentials. Teaching professionals and academic administrators whose primary duty consists of administrative functions directly related to academic instruction or training and who interact with students outside the classroom also may be exempt.

### ❖ **What are some examples of positions falling under the exemptions?**

Examples of exempt academic administrative personnel may be department heads, counselors, recruiters, intervention specialists, etc.; however, they also must meet a special salary threshold for this exemption that is at least the salary of an entry-level teacher at the institution.

Examples of the teaching professionals faculty and coaches if their primary duties consist of teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge, which may include instructing athletes how to perform their sport. (Must be over 50% of normal duties)

Examples of the learned professionals may be librarians and athletic trainers.



❖ **What is considered overtime for pay or compensatory time purposes?**

All hours worked in excess of 40 hours in one workweek. For Law Enforcement, time is measured in a 14-day work period and overtime is earned for hours in excess of 80 hours in a work period.

Overtime may be in the form of wages or compensatory time, which is the normal practice of Lander University except for a few limited positions. An employee who is eligible for overtime will be compensated at one and one-half times his/her regular hourly rate of pay or granted compensatory time at a rate of one and one-half hours for each hour worked over 40.

❖ **What is the regular rate of pay for an employee?**

The regular rate of pay includes all remuneration for employment paid to an employee to include base pay and all compensation not included in base pay as outlined in the State Human Resources Regulations, with the exception of discretionary bonuses.

❖ **How does this affect me as a supervisor or manager?**

If an employee is making less than \$47,476 a year and is eligible for overtime, he/she will be required to report all hours worked. This may result in more employees in your area being required to complete timesheets for payroll. All comp time earned and taken will need to be documented and reported to Human Resources since comp time for nonexempt employees may include payment in the event of separation, job change, or the employee reaching the 240 hour allowed maximum for compensatory time.

❖ **What are my responsibilities as a supervisor/manager based on new law?**

As a supervisor or manager of nonexempt employees, you are responsible for checking to ensure that employees accurately report all hours worked so they can receive overtime pay or compensatory time when due.

❖ **How do I ensure that employees are reporting all time that they worked?**

Maintaining good communication about expectations for work hours is essential when it comes to overtime. Supervisors and managers will need to be attentive to the hours their employees work in order to ensure compliance.

For example, stopping at the normal quitting time, but spending another 15 minutes putting things away, or sending a few last minute emails, is still considered working.



❖ **It is important for employees to understand the following:**

- Employees must receive approval to work overtime.
- Employees must report all overtime worked.
- Employees cannot work overtime out of the “goodness of their hearts”.

❖ **What happens if an employee works overtime without prior approval from the supervisor or manager?**

Nonexempt employees are entitled to overtime pay or compensatory time whether the overtime was approved or not. The department and your budget are liable for any overtime.

If an employee works overtime without receiving approval, then the employee may be disciplined according to policy. With this being new, we encourage a discussion with an employee first to ensure they are fully aware of these changes.

❖ **Will this law affect employees who have dual positions?**

Yes, employees who have dual positions will be impacted, as well as the department that is liable for overtime in these positions. According to the Fair Labor Standards Act, an employee can have only one FLSA status of either exempt or nonexempt.

If the primary position is nonexempt, then any other positions held by the same employee also will be considered nonexempt and **MUST** be paid at a time and half rate for the secondary position for hours worked.

❖ **Are there any options in reducing departmental overtime costs?**

Yes, depending on the services offered by the department. Employees may be allowed to stagger or adjust their schedules during busier times. For example, for special events during the same workweek, an employee may vary their hours to meet operational needs. For new positions, the supervisor may look at placing some positions on different shifts or working a flexible schedule.

❖ **What if a nonexempt employee must travel during the workday? Is travel time counted towards hours worked?**

- Home to work hours for a normal commute are NOT considered compensable.
- Regular meal periods are NOT considered hours worked.
- Travel time for nonexempt employees may be hours worked under some conditions.



❖ **How are nonexempt employees compensated for travel time when they are required to stay overnight in another city?**

FLSA regulations are clear on this issue. 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. Time spent in travel away from home outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile is not work time if not performing work duties.

❖ **We have nonexempt employees that live on the premises. What is considered work time and what is compensable?**

If employees who are required to live on the employer's premises are free during their off-duty time to sleep, eat, watch television, exercise, play, or engage in other personal endeavors, the off-duty time is not considered compensable work time.

With regards to sleep time, up to eight hours of sleeping time can be excluded from overtime compensation under the following conditions:

- if there is an express agreement that excludes sleeping time
- if adequate sleeping facilities are provided that allow an uninterrupted night's sleep
- if at least five hours of sleep are possible during the scheduled sleeping periods and interruptions to perform duties are considered time worked. If the employee cannot get at least 5 hours of sleep, then the entire time must be counted as hours worked.

❖ **Does room and board count toward the \$47,476 threshold?**

No, room and board do not count toward the \$47,476 threshold.

❖ **We have an exempt employee and their salaries are prorated since they do not work 12 months. The prorated salary is below the \$47,476 threshold. Will this person now be considered nonexempt?**

To meet the exemption status under the white collar exemption regulations, the employee must be paid at least \$913 per week during the months they work AND meet the duties test.



- ❖ **We have an exempt employee who works part-time. Their part-time salary is below the \$47,476 threshold since they do not work 37.5 hours per week. Will this person now be considered nonexempt?**

Yes, it does not matter whether an employee is full-time or part-time. To meet the salary threshold for exemption, they must earn \$47,476 per year or \$913 per week.