

# FLSA Employee Information

NEW FLSA REGULATIONS | HOW DO THEY AFFECT ME

APRIL 2024



# US Department of Labor

- [U.S. Department of Labor](#) > [Work Hours](#) > [Overtime](#)
- [U.S. Department of Labor](#) > [Wage and Hour Division](#) >
  - [Wages and the Fair Labor Standards Act](#)
  - [Overtime Pay](#) > [Final Rule: Restoring and Extending Overtime Protections](#)
  - [WHD Fact Sheets](#) >
    - [Fact Sheet #17A](#): Exemption for Executive, Administrative, Professional, Computer & Outside Sales Employees Under the Fair Labor Standards Act (FLSA)
    - [Fact Sheet #17S](#): Higher Education Institutions and Overtime Pay Under the Fair Labor Standards Act (FLSA)
    - [Fact Sheet #17H](#): Highly-Compensated Workers and the Part 541-Exemptions Under the Fair Labor Standards Act (FLSA)

# Exempt Positions

To qualify as exempt under the Fair Labor Standards Act (FLSA) three criteria must be met:

1. Employee must be paid on a salary basis
2. Pay must meet salary test
3. Position must meet duties test

The only criteria changing is the salary threshold.

# Effective Dates



The final rule will increase the standard salary level and the highly compensated employee total annual compensation threshold on the rule's effective date on July 1, 2024, when changes in the methodologies used to calculate these levels become applicable.

The final rule also provides for future updates of these levels every three years to reflect current earnings data.

# Quick Review of Exempt Tests

## HIGHLY COMPENSATED

- The Department's regulations also provide an alternative test for certain highly compensated employees who are paid a salary, earn above a higher total annual compensation level, and satisfy a minimal duties test.
- \$132,964 per year, including at least \$844 per week paid on a salary or fee basis
- The employee's primary duty includes performing office or non-manual work
- The employee customarily and regularly performs at least one of the exempt duties or responsibilities of an exempt executive, administrative or professional employee.
- For example, an employee may qualify as an exempt highly compensated executive if the employee customarily and regularly directs the work of two or more other employees, even though the employee does not meet all of the other requirements in the standard test for exemption as an executive.

# Quick Review of Exempt Tests

Continued

## ADMINISTRATIVE

- Paid at a rate not less than \$844 per week
- Primary duty must be the performance of office or non-manual work directly related to management or business operations of the employer or the employer's customers.
- Primary duty includes exercise of discretion or independent judgment with respect to matters of significance
- Academic counselors and other employees with similar responsibilities may be paid at least equal to the entrance salary for teachers in the same educational establishment - \$844 per week at USF.

# Quick Review of Exempt Tests

Continued

## COMPUTER EMPLOYEE

- Paid at a rate not less than \$844 per week
- The primary duty must consist of:
  1. The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications;
  2. The design, development, documentation, analysis, creation, testing or modification of computer systems or programs,
  3. The design, documentation, testing, creation or modification of computer programs related to machine operating systems; or
  4. A combination of the aforementioned duties, the performance of which requires the same level of skills.

# Quick Review of Exempt Tests

Continued

## PROFESSIONAL

- Learned Professional
  - Paid at a rate not less than \$844 per week or \$43,888 per year
  - Primary duty must be the performance of work requiring advanced knowledge, primarily intellectual in character, and requiring the exercise of discretion and judgment
- Creative Professional
  - Paid at a rate not less than \$844 per week or \$43,888 per year
  - Primary duty must be the performance of work requiring invention, imagination, originality or talent
- Teachers
  - The salary basis requirement does not apply to bona fide teachers



## GRADUATE ASSISTANTS

- Are not subject to the threshold
  - If work is related to course of study or
  - If assisting with research or
  - If work is instructional

## POSTDOCTORAL POSITIONS

- Are not students or teachers
- Are subject to the threshold
  - The President and senior leadership made the decision to bring all Postdoctoral positions to the threshold except for those who are part-time. Part-time will be paid at an hourly equivalent.

- Total annual compensation does not include:
  - Credit for board, lodging or other facilities
- Total annual compensation may include:
  - Commissions
  - On-going stipends

# Higher Education

Continued

# How Does This Affect Me?

- You will have to complete a time sheet
- You will become eligible for overtime
  - Over 40 hours in workweek
  - Work week at USF is Friday to Thursday
  - Schedule can be altered within workweek to avoid OT. Requires prior notification.
  - Must have supervisor's approval
- Compensatory time is allowed for government agencies
  - Compensatory time agreement – employee must agree to compensatory time
  - Must use compensatory time first before any leave
  - May need to use within certain time limits
  - Maximum accrual of 120 hours

Compensatory time is a permanent obligation that must be used or paid.

# Is It Work?

- Evening e-mails
- Eating lunch at desk
- Texting
- Phone calls after work
- On call situation
- Volunteering for homecoming float
- Travel to professional development conference

If it could in anyway be related to professional work,  
reach out for prior approval.

# Job Classification



- Your work is still considered professional
- Some classifications may be revised to multiple levels in the future

# How Do The New Regulations Affect Me?

- You will be required to complete a time sheet.
- Track number of hours worked each workday
- Actual work hours should be 40 hours or equivalent to your FTE, or some type of leave must be used: Sick, Vacation, Holiday, Administrative Leave, Compensatory Time.
- Timesheet signed by supervisor every two weeks. (Both employee and supervisor attest to the number of hours worked.)

# Time Sheet

## Show and Tell



### Forms Library

- Time Sheet Instructions
  - [Staff/Non-Exempt Administration Timesheet Instructions](#)
  - [Temporary \(Hourly\) Timesheet Instructions](#)
- Time Sheet Forms
  - [Timesheet 2024](#)
  - [Timesheet 2024 Temporary \(Hourly\)](#)

# Resources

## SITES

- [Human Resources](#) > [Employment Resources](#) > [Classification & Compensation](#) > [Fair Labor Standards Act \(FLSA\) Compliance](#)
- [U.S. Department of Labor](#) > [Wage and Hour Division](#) >
  - [Wages and the Fair Labor Standards Act](#)
  - [Overtime Pay](#) > [Final Rule: Restoring and Extending Overtime Protections](#)
  - [WHD Fact Sheets](#) >
    - [Fact Sheet #17A](#)
    - [Fact Sheet #17S](#)
    - [Fact Sheet #17H](#)

## QUESTIONS

For any questions, comments, or concerns:

- Reach out to your manager
- Email CHR Employee Experience Team ([chr-eet@usf.edu](mailto:chr-eet@usf.edu))



**Thank you!**

