

New Changes to the FLSA Exemption Rules

managers.hr.gsu.edu/classification-compensation/flsa-information/

On May 18, 2016, the US Department of Labor announced changes to the FLSA overtime exemption rules. The minimum salary threshold required for an employee to be considered as exempt for overtime payment has changed. The current salary threshold is \$23,660 and as of December 1, 2016, the new salary threshold will be \$47,476.

What does this change to the salary threshold mean?

If you are in a full-time position that earns less than \$47,476/yr. and your position is classified as exempt, here are some possible changes that could take place:

- Your pay schedule will change from monthly to bi-weekly.
- If you work over 40 hours a week, you must be paid overtime at the rate of one and a half your hourly rate.
- Your title and/or duties may change.
- If the budget allows, your salary may be moved up to the new salary threshold to maintain the FLSA exemption of exempt.

Central HR will be working with your department to review those positions that fall below the new salary threshold. Below please find frequent asked questions from Managers and from Employees. If you have a question that is not listed please first contact your HR Representative or contact Central Office's Classification and Compensation department.

Frequently Asked Questions for Employees

Q: What is the FLSA?

A: FLSA stands for Fair Labor Standards Act; it is enforced by the US Department of Labor. It is a federal law that determines eligibility for overtime pay. Major changes to these rules and regulations were last implemented by the Department of Labor in 2004. If you perform duties that do not meet one of the exemption tests developed, the position will be classified as 'non-exempt' and you are eligible for overtime pay.

There is a two part test: the **salary** test and then the **duties** test.

Q: What is the salary test change, and where can I find additional information about the FLSA?

A: General information, including an explanation of the salary test change, can be found on the US Department of Labor website. Click here: <https://www.dol.gov/whd/overtime/final2016/>.

Q: When will this change go into effect?

A: The effective date of this change is December 1, 2016. In order to meet the deadline and not negatively affect our employees the change will take place prior to December 1st. The exact date has not been determined yet.

Q: When will employees be notified that their FLSA exemption and/or title has changed?

A: Employees and their supervisors will be notified in late August or early September.

Q: How do you calculate overtime pay?

A: Overtime pay is calculated at one and a half times your regular rate of pay. Overtime pay is applicable for hours worked in excess of 40 hours in a given workweek.

- The workweek begins 12:00 AM Saturday and ends at 11:59 PM Friday.
- Contact your Human Resources Advisory Committee (HRAC) representative for further assistance.

Q: Will the paygrade change if the title is changed to non-exempt?

A: No, the paygrade will not change.

Q: Will the hiring range change due to the new FLSA guidelines?

A: Yes. If the position is labeled as being an exempt position, the new minimum hiring salary will be \$47,476 regardless if the job title is assigned to a paygrade with a lower minimum salary.

Q: My FLSA exemption changed because my salary was below the new minimum FLSA salary threshold of \$47,476. Does this mean that my FLSA exemption will change back to exempt once my salary reaches \$47,476?

A: No. The change will be based on the title University-wide not just one the position.

Q: Does this mean I have to complete a timesheet/timecard every week?

A: Yes, in ADP. You must record and approve your timecard bi-weekly. For e-time training manual and videos: <http://employees.hr.gsu.edu/payroll/reporting-time/>

Q: How do I calculate my hourly rate?

A: Take your yearly salary and divide it by 2080. For example:

- $\$45,000/2080 = 21.634615384$
- The hourly rate will be \$21.63

Q: Can I still answer work e-mails at home at night? Weekends?

A: You must have prior approval from your supervisor. Any time worked must be paid for; this includes reviewing/responding to work e-mails or working weekends if you are not scheduled to do so.

Q: Can I work additional hours without having it approved by my immediate supervisor?

A: No. Must have immediate supervisor's approval prior to working the additional hours.

Q: Can you work 50 hours one week and 30 hours the next week and not be paid overtime?

A: Overtime is based on hours worked over 40 hours a week. Each workweek stands alone; averaging hours worked over two or more workweeks is not permitted by the FLSA.

Frequently Asked Questions for Managers

Q: Does this mean I have to change the duties of the employee because I cannot pay them the new salary threshold?

A: It depends. This will be reviewed on a case-by-case basis. Contact your HRAC Representative.

Q: We currently have employees designated as salary exempt that are performing exempt duties. The only change is the salary requirement. Do those employees automatically become non-exempt because they will not meet the "Salary level?"

A: The job duties will not change. To qualify for exemption, employees must meet certain requirements related to their job duties and satisfy the standard salary level and salary basis tests. Unless an employee works in an occupation that is not subject to the salary requirements (e.g., outside sales employees, doctors, teachers,

lawyers), they must earn at least \$913 per week (equivalent to \$47,476 per year) beginning on December 1, 2016 to retain their exempt status.

Q: Do I need to update the PRF for those positions with salaries below \$47,476?

A: If the PRF on file is older than three years old or duties have changed since the last review then the answer is yes.

Q: What if the employee doesn't work 12 months a year, they only work 10...then is it by week salary or in total?

A: To qualify for any of the white-collar exemptions, employees generally must meet the salary basis test, the salary level test, and the duties test. Generally, if an exempt employee subject to the salary level test works for any amount of time during their workweek, they must receive at least the full standard salary level (\$913 per week, beginning on Dec. 1, 2016) to retain their exempt status. Please see FOH 22g10 concerning rules for annual salary earned in a shorter period, which can be found at the following link: https://www.dol.gov/whd/FOH/FOH_Ch22.pdf.

Q: What are the consequences if the new FLSA exemption law is violated?

A: Georgia State University could be fined a penalty by the US Department of Labor.

Q: Who decides if a position is performing duties that are exempt level duties according to the USDOL FLSA regulations?

A: The Central Office – Human Resources department, with input from the colleges and divisions.

Q: Can supervisors provide cell phones to their non-exempt employees?

A: Yes, but any calls received after hours is considered paid time. The employee must be paid for this time.

Q: Can you work 50 hours one week and 30 hours the next week and not be paid overtime?

A: Overtime is based on hours worked over 40 hours a week. Each workweek stands alone; averaging hours worked over two or more workweeks is not permitted by the FLSA.

Q: When can/should a supervisor use comp time instead of paying for overtime?

A: TBD – Policy is being developed by the Board of Regents.

Q: How are graduate and undergraduate students affected?

A: Generally, graduate and undergraduate students who are engaged in research under a faculty member's supervision in the course of obtaining a degree are considered to be in an educational relationship and not an employment relationship and therefore not entitled to overtime.

- **Graduate students** whose **primary duty is teaching or serving as a teaching assistant** fall under the FLSA's teaching exemption.
- **Postdoctoral researchers in the sciences** are not covered by the teaching exemption. These employees are generally considered professional employees and are subject to the salary threshold for exemption from overtime.
- **Postdoctoral researchers in the humanities** also teach. To the extent that they have a primary duty of teaching, they will be subject to the teaching exemption and not entitled to overtime compensation. If they do not teach, however, and earn less than the new threshold, they will be eligible for overtime.

If there are no changes in duties and responsibilities and the PRF on file is not older than three years old then the answer is no.

Q: If I have a position that is exempt and paid below the new salary threshold, what are my options as a Manager?

A: FLSA changes will be based on the job title not by individual positions. If your position is one of those titles that will be changed, you have the following options:

- Raise salary to at least the new salary threshold to remain exempt.
- Pay overtime for hours in excess of 40 hours per week.
- Reorganize workloads, adjust schedules or spread work duties.
- Adjust wages.

Q: What is the salary requirement for part-time salary workers?

A: Whether a worker is full-time or part-time, the standard salary level to qualify for exemption will be \$913 per week. The salary level is not prorated for part-time employees.

Q: Can housing allowances be applied to the base salary to meet the new FLSA salary threshold?

A: No. For Executive, Administrative, Professional or White Collar employees to qualify for exemption under section 13(a) (1) of the Act, an employee must earn the minimum salary amount set forth in section 541.600, "exclusive of board, lodging, or other facilities." The phrase "exclusive of board, lodging, or other facilities" means "free and clear" or independent of any claimed credit for non-cash items of value that an employer may provide to an employee. Please see 29 CFR 541.606 for more information.

Q: Does a 'Secretary' who makes \$48,000 fit into an exempt category?

A: Workers who do not pass the standard duties test, including most secretarial staff, do not qualify for exemption and will be entitled to overtime pay.

Q: What are the job titles affected by the new FLSA guidelines?

A: Please see the attached list.

Titles that will be impacted by the new FLSA salary threshold of \$47,476

Sept. 2016

<u>Title</u>	<u>Total # of Employees with title</u>	<u>Proposed FLSA Exemption</u>	<u>Pay Grade</u>	<u>Job Code</u>	<u>Notes</u>
1 Accountant II	19	NE	13	09LX01	
2 Administrative Specialist - Academic	32	NE	16	09HX08	
3 Administrative Specialist - Administrative	16	NE	12	09HX10	Will replace the title Senior Administrative Coordinator - Job Code: 09TU06
4 Administrative Specialist - Administrative, Senior	4	NE	14	09HU02	
5 Administrative Specialist - Curriculum	7	NE	17	09HX11	
6 Administrative Specialist - Student Affairs	5	NE	13	09HX12	
7 Admissions Counselor I	1	NE	10	09JX01	
8 Admissions Counselor II	1	NE	12	09JX02	
9 Admissions Counselor III	17	NE	14	09JX03	
10 Archival Associate	2	NE	11	09IX15	
11 Assistant Director, Student Life	1	NE	B2-Z1	09FDE3	
12 Assistant Resident Hall Director	5	NE	9	09JX53	
13 Assistant to the Vice President	3	NE	13	09HX27	
14 Associate to the Dean	4	NE	14	09HX14	
15 Associate to the Director	10	NE	13	09HX15	
16 Associate to the Vice President	1	NE	14	09HX28	
17 Athletics Marketing Manager	1	NE	NPP	09TXD2	
18 Baseball Operations Director	1	NE	NPP	09RX19	
19 Box Office Manager, Rialto	1	NE	12	09NX50	
20 Career Counselor	4	NE	13	09JX04	
21 Cashier Supervisor	2	NE	12	09SX12	
22 Chemical Safety Specialist, Senior	1	NE	14	09NU06	
23 Child Development Specialist III	0	NE	16	09PX26	
24 Child Development Specialist I	1	NE	13	09PX24	
25 Child Development Specialist II	5	NE	14	09PX25	
26 Classroom Support Tech, Intern.	1	NE	13	09ON10	
27 Coordinator, Aquatic Operations	1	NE	15	09JX29	
28 Coordinator, Disability Services	2	NE	15	09IX03	
29 Coordinator, Indian Creek Facility	1	NE	15	09HX44	
30 Coordinator, Instructional Programs	1	NE	15	09JX30	
31 Coordinator, Media Services	2	NE	14	09JX42	
32 Coordinator, Recreation Center Operations	2	NE	15	09JX26	
33 Coordinator, Residential Leadership	1	NE	15	09IX30	
34 Coordinator, Sports Clubs	1	NE	15	09JX36	

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35 Coordinator, Supplemental Instruction	2	NE	15	09JX62	
36 Coordinator, Event Support Services	5	NE	14	09JX41	
37 Data Administrator, Intermediate	6	NE	16	09KN01	
38 Development Associate	3	NE	14	09MX12	
39 Development Coordinator	4	NE	12	09MX10	
40 Development Management Specialist I	1	NE	13	09JX59	
41 Development Management Specialist II	3	NE	14	09JX60	
42 Dining Hall Supervisor	2	NE	12	092X02	Replaces Food Service Supervisor job title 092X02
43 Editorial & Production Coordinator	1	NE	13	09MX06	
44 Educational Program Specialist	9	NE	12	09IX06	
45 Employee Relations Specialist	2	NE	15	09KX12	
46 Enrollment Services Specialist, Senior	1	NE	14	09IU01	
47 Event Planner, Rialto Center	1	NE	15	09NX51	
48 Food Services Supervisor	5	NE	12	092X02	Replaced with the title Dining Hall Supervisor
49 Grants & Contracts Officer I	2	NE	12	09MX26	
50 House Manager, Rialto	1	NE	13	09NX54	
51 HR Coordinator, A&S	2	NE	13	09HX09	New title College/Division HR Coordinator - 09H55 paygrade 13
52 HR Coordinator, Facilities Management	1	NE	14	09HX17	New title College/Division HR Coordinator - 09H55 paygrade 13
53 HR Coordinator, Law	0	NE	12	09HX36	New title College/Division HR Coordinator - 09H55 paygrade 13
54 HR Coordinator, Student Affairs	1	NE	14	09HX46	New title College/Division HR Coordinator - 09H55 paygrade 13
55 HR Coordinator, Student Center	1	NE	13	09HX29	New title College/Division HR Coordinator - 09H55 paygrade 13
56 Library Associate I	2	NE	10	09IX16	
57 Library Associate II	4	NE	11	09IX17	
58 Manager, Copy Services	1	NE	14	09MX41	
59 Manager, Editorial & Production	2	NE	14	09MX05	
60 Manager, Parking Operations	1	NE	15	09NX65	
61 Marketing Specialist	4	NE	15	09HX39	
62 Military Outreach Coordinator	1	NE	14	09JX65	
63 Panthercard Administrator	1	NE	14	090X39	
64 Parking & Transportation Specialist	2	NE	12	09HX20	
65 Parking Services Supervisor	3	NE	11	093X05	This title was created as non-exempt
66 Personal Counselor	3	NE	14	09QX11	
67 Procurement Specialist I	2	NE	11	09JX48	
68 Program Specialist	1	NE	11	09HX23	
69 Public Relations Specialist	10	NE	14	09MX19	
70 Purchase Card Administrator	1	NE	14	09LX23	

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71 Research Coordinator I	2	NE	10	09PX05	
72 Research Financial Specialist, Senior	1	NE	14	09LU05	
73 Research Scientist I	10	NE	NPP	09PX08	
74 Research Technician III	2	NE	12	09PX10	
75 Residence Hall Director	8	NE	11	09JX33	
76 Retail Supervisor	1	NE	12	092X06	
77 Retention Coordinator	3	NE	13	091X35	
78 Sous Chef	5	NE	12	093X40	
79 Student Affairs Advisor I	0	NE	11	09JX19	
80 Student Affairs Advisor II	3	NE	13	09JX20	
81 Student Affairs Advisor III	1	NE	15	09JX21	
82 Student Development Specialist	1	NE	11	09JX24	
83 Student Development Specialist, Sr.	3	NE	13	09JU11	
84 Student Financial Aid Counselor	9	NE	12	09JX17	
85 Student Financial Aid Counselor, Senior	19	NE	13	09JU12	
86 Study Abroad Advisor	3	NE	13	09JX16	
87 Training Specialist	3	NE	13	09KX13	
88 Training Specialist, Senior	2	NE	15	09KU04	
Total	323				