UVU Employee Forum Purpose

On May 18, 2016, the DOL issued new rules that increase the salary threshold under which certain workers receive the benefit of these protections. These new rules will go into effect on December 1, 2016. Along with the new rules, the DOL has issued specific guidance for higher education institutions. The UVU Employee Forum’s purpose is:

1. To provide all UVU employees information regarding UVU’s efforts to address and comply with the federal government’s changes to the FLSA exemption salary level test

2. To share general information about UVU’s plan moving forward to be in compliance by December 1, 2016

Please note: The FLSA Compliance Committee is still in the process of working with Human Resources to finalize the impact to direct employees; we are not able to share individual employee information.
What is the Fair Labor Standards Act (FLSA)?

The FLSA establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting employees in the private sector and in Federal, State, and local governments. Covered nonexempt workers are entitled to a minimum wage of not less than $7.25 per hour effective July 24, 2009. Overtime pay at a rate not less than one and one-half times the regular rate of pay is required after 40 hours of work in a workweek.

Signed into Law June 25, 1938

Adapted From: https://www.dol.gov/whd/flsa/
What is the Fair Labor Standards Act (FLSA)? Continued

FLSA Minimum Wage: The federal minimum wage is $7.25 per hour effective July 24, 2009. Many states also have minimum wage laws. In cases where an employee is subject to both state and federal minimum wage laws, the employee is entitled to the higher minimum wage.

FLSA Overtime: Covered nonexempt employees must receive overtime pay for hours worked over 40 per workweek (any fixed and regularly recurring period of 168 hours — seven consecutive 24-hour periods) at a rate not less than one and one-half times the regular rate of pay. There is no limit on the number of hours employees 16 years or older may work in any workweek. The FLSA does not require overtime pay for work on weekends, holidays, or regular days of rest, unless overtime is worked on such days.

Adapted From: https://www.dol.gov/whd/flsa/
What is the Fair Labor Standards Act (FLSA)? Continued

Hours Worked: Hours worked ordinarily include all the time during which an employee is required to be on the employer’s premises, on duty, or at a prescribed workplace. Includes meal breaks, travel, donning/duffing, on call time, waiting time, trainings, and telecommuting.

Recordkeeping: Employers must display an official poster outlining the requirements of the FLSA. Employers must also keep accurate employee time and pay records.

Child Labor: These provisions are designed to protect the educational opportunities of minors and prohibit their employment in jobs and under conditions detrimental to their health or well-being.

Adapted From: https://www.dol.gov/whd/flsa/
Timeline of the New FLSA Rules

March 13, 2014: President Obama directed the Department of Labor (DOL) to update the FLSA regulations to
• Ensure workers paid fair pay for fair day’s work
• Modernize and simplify regulations
• Ensure intended protections fully implemented

March 2014 to July 2015: DOL conducted fact finding/outreach to stakeholders

July 6, 2015: DOL published Notice of Proposed Rulemaking
• During the comment period, 250,000+ comments received

March 2016: DOL delivered proposed regulations to Office of Management and Budget

May 18, 2016: New rules released

December 1, 2016: New rules effective
UVU’s Timeline

March 2014 to present: Monitored issues and progress since initial announcement

February/March 2016: Framed initial issues and potential impact with President’s Cabinet

May 18, 2016: Direct communication with PELC following new rule announcement

April 2016: Weekly meetings of the FLSA Compliance Committee, which includes HR, General Counsel, VP of Planning, Budget and Human Resources, AVP of Academic Administration

August 26, 2016: First general campus communication to all full-time employees sent via HRMatters

Sept. 13, 2016: Meeting with the Academic Affairs Council

Sept. 20, 2016: Meeting with PACE General Board

Sept. 19 to Sept. 23, 2016: Meetings with Vice Presidents and Deans

Sept. 26, 2016: Second general campus communication to all full-time employees sent via HRMatters

Oct. 3, 2016: UVU Employee Forms (3)

Ongoing: Information gathering, education, and exploration of possible strategies
FLSA Summary of Changes

Salary Level Test Changed
• Effective December 1, annualized salary of $47,476 ($913 per week), formerly $23,660 ($455 per week)

Automatic salary level increases every 3 years
• Estimated to be $51,168 in 2020

Highly Compensated Employee Exemption
• Increases from $100,000 to $134,004

No changes to the Duties Test

Clarified Academic Administrative Exemption test for Higher Education

FLSA Duties Tests and Exemption

1. To qualify for exemption, employees generally must meet certain tests regarding their job duties and be paid on a salary basis at not less than $913 per week.

2. Job titles do not determine exempt status. For an exemption to apply, an employee’s specific job duties and salary must meet all the requirements of the DOL’s regulations.

3. Major duties tests include: Executive, Administrative (not administrative support type functions), Learned professional (includes teaching), Creative professional, etc.
Classifying Employees Under Fair Labor Standards Act Summary

EXEMPT

Overtime ineligible
Paid at least $47,476/year and primary duty meets one or more of the exemption tests

Special provisions for higher education
• Teaching exemption (no minimum salary; primary duty meets exemption test)
• Academic Administrators must meet two requirements
  • Paid at least minimum salary of the lowest paid faculty member (UVU 16-17 = $42,625) and
  • Primary duty meets exemption test

NONEXEMPT

Overtime eligible
• Pay of 1 ½ times their hourly rate for any hours worked over 40 in any 7-day period (Saturday to Friday at UVU)
• Comp time of 1 ½ times the hours worked over 40 in any 7-day period (Saturday to Friday at UVU)

Generally Paid less than $47,476/year
Primary duty does not meet one of the exemption tests
Either primary duty does not meet academic administrators exemption test or position is paid less than $42,625
UVU Compensation Philosophy

1. Provide wages, salaries and benefits that are competitive within appropriate labor markets

2. Promote internal equity across diverse university functions

3. Ensure consistency in meeting compliance requirements while remaining flexible in responding to internal and external workforce changes

For a complete copy of UVU’s Compensation Philosophy visit: http://www.uvu.edu/hr/docs/compensation/comp_philosophy.pdf
Implementation at UVU

President’s Council has approved the following implementation guidelines to date:

General Principles

To promote equity, all positions performing same/similar duties within the same grade level will be classified similarly as either exempt or nonexempt based on the criteria from the Federal government and informed by UVU’s compensation philosophy, salary table, and employee data.

Affirmed $42,625 as the 2016-17 entry salary for teaching at UVU and the minimum salary threshold for the academic administrative exemption test.

Currently classified exempt staff employees were allowed to teach as adjuncts during Fall 2016 Semester (with appropriate approvals).

UVU is still reviewing the practice of not allowing nonexempt staff to teach as adjuncts and/or otherwise have any UVU additional paid assignment outside of the employee’s primary duties.
Implementation at UVU (cont.)

Leave Accrual and Comp Time

Due to nonexempt employees’ ability to accrue comp time, no change will be made to existing policy, which provides exempt employees three more vacation days per year than non-exempt employees during the first 14 years of employment.

As employees whose classification moves from exempt to nonexempt will not have yet accrued comp time, such employees will be awarded 24 hours of additional personal leave January 1, 2017, to be used during 2017 leave year.

While federal law allows public employees to accrue up to 240 hours of comp time, UVU has established a limit of 120 hours of accumulated comp time. Any hours in excess of 120 hours will be paid by the employee’s department as overtime. This limit reduces UVU’s liability at employee termination and/or at the conclusion of grants and contracts.

UVU will also continue its practice of paying out accumulated comp time when an employee changes positions within the University.
Record Keeping

Non-exempt staff will continue to be paid on a salary basis and use the TIMS system to accurately record hours worked. Modification to the TIMS system to record hours worked is expected to be completed by March 2017.

Beginning March 2017, nonexempt employees will be required to use the TIMS system to clock in and out at the beginning and end of their work day and at the beginning and end of the meal period as defined by policy. Based on recorded work hours, pay (overtime/docked time) and leave adjustments will be made to ensure accurate pay for time worked.
Moving Forward

The FLSA Compliance Committee will bring policy revisions to President’s Council for temporary emergency and regular process in October/November and temporary emergency approval by the Board of Trustees by December 1, 2016.

Human Resources will recommend revisions to exempt/non-exempt salary scales for approval by the Board of Trustees by December 1, 2016.

Human Resources will directly contact employees and their supervisors to communicate any FLSA classification changes. We expect this to take place in mid-to-late October/early November.

Employee/supervisor trainings are also expected to begin mid-to-late October/early November.

UVU is scheduled to be in compliance with the new salary level test requirements from the Department of Labor by the deadline of December 1, 2016.
Summary

As of December 1, 2016, more UVU employees will be non-exempt and eligible for compensatory time and/or overtime pay.
Questions?