

Becoming Non-Exempt How Changes to the Fair Labor Standards Act (FLSA) Will Affect You

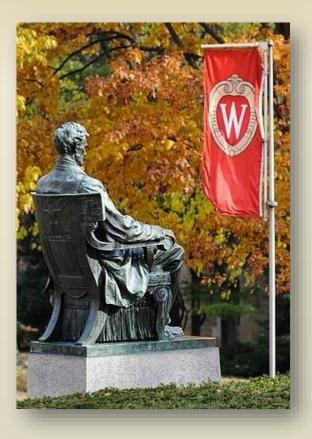
Presented by the Office of Human Resources (OHR)

Benefits Services, Compensation & Titling International Faculty and Staff Services, Payroll Services, and Workforce Relations (Rev 10.25.16)





After this session, you will be able to identify:



- 1. What changed in the Fair Labor Standards Act (FLSA)
- What this change means for you
- 3. Actions that may need to be taken
- 4. Who can answer your questions



- 1. Overview of the Fair Labor Standards Act (FLSA)
- 2. The Change to the Fair Labor Standards Act
- 3. What this change means for you:
 - o Payroll
 - o Benefits
 - International Faculty & Staff
 - Paid Leave
 - Scheduling & Hours of Work
- 4. Resources and Time for Q&A



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Overview of FLSA & Changes Compensation & Titling





Overview of FLSA

The Fair Labor Standards Act of 1938 is the US Department of Labor (DOL) federal wage and hour law.



This law encompasses protections for employees, including regulations governing the workweek, minimum wage, overtime pay, and youth employment.

Everyone is 'covered' under the law, but some employees are **exempt** and some are **non-exempt**.



Definition of Exempt and Non-Exempt

FLSA Exempt:

An FLSA exempt position is not subject to the overtime protections outlined in the FLSA.



FLSA Non-Exempt:

An FLSA non-exempt position is subject to the protections outlined in the FLSA that ensure one receives overtime pay.



FLSA Rules Guiding Whether a Position is Exempt or Non-Exempt

Exempt	Non-Exempt
Paid annually/salary	Paid hourly
Normally, no additional compensation for more than 40 hours worked, in a work week	Overtime pay or compensatory time ("comp time") for more than 40 hours worked, in a work week



Overview of FLSA

Exemption is based on qualifying for <u>all</u> of three tests:

- 1. Salary Basis Test. You must be paid on an annual salary basis, AND
- 2. Minimum Salary Test. You must be paid above a salary threshold amount of \$455 per week or \$23,660 annually (\$11.38 per hour), AND



Duty and Discretion Tests. You must qualify as an executive, administrative, professional or computer professional.

*Regardless of salary, teachers, doctors and lawyers are always exempt.



What changed?

 On May 16, 2016, the US Department of Labor raised the minimum salary threshold to qualify for exemption.

Annually:	\$47,476
Weekly:	\$913
Hourly:	\$22.83

(Academic Year: \$38,844)

 Teachers, lawyers, and doctors (as defined by the FLSA) do not have a minimum salary threshold; this change does not apply to them.



When does this take effect?



The changes go into effect on Thursday, **December 1, 2016.**



<u>Who</u> is affected?

- If your earnings are below the new minimum salary level (\$47,476), then your employment status must be nonexempt unless you qualify for a minimum salary threshold exemption.
- Some Academic Staff may qualify for an Academic Administrator exemption with a lower minimum salary threshold.
- Some exempt University Staff and Non-Instructional Academic Staff may become non-exempt.



How are you affected?

- Your employment category (e.g., Academic Staff, University Staff) will not change.
- Your professional role in service to the mission of the university will not change.
- If you're not already paid biweekly, you will transition to being paid on an hourly basis via biweekly payroll.
- You will need to record all hours worked (and leave taken) in 15-minute increments. You are paid for all hours worked.
- All hours worked over 40 in a work week require compensatory ("comp") time or overtime payment. You must get pre-approval for compensatory time and overtime.



Does this change *Employee Choice*?

• The DOL changes to the FLSA do <u>not</u> affect *Employee Choice.*

If you are an Exempt University Staff employee on November 30, 2016, you will still have the option to become Academic Staff on or after December 1, 2016.

 On December 1, 2016, Academic Staff employees who earn less than the minimum salary threshold (\$47,476) will remain Academic Staff, but will change to being paid on an hourly basis via biweekly payroll.



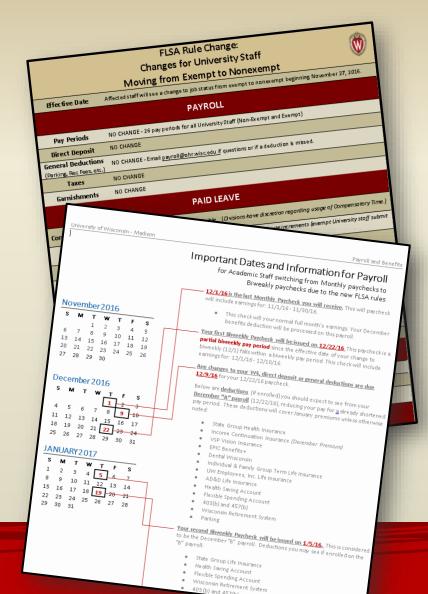
Follow along with handouts

FLSA Rule Change ("side-byside") documents address how the change from exempt to non-exempt affects:

- University Staff
- Academic Staff
- Post Degree Training
- Program/Project Assistant

Important Dates and Information for Payroll

- A-Basis (12 month employees)
- C-Basis (9 month employees)







Compensation and Titling

Office of Human Resources 21 N. Park Street Suite 5101 Madison, Wisconsin 53715

Phone: 608-265-2257 Fax: 608-265-6547

Email: flsa@ohr.wisc.edu

Office Hours: 7:45am - 4:30pm (Monday - Friday)



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FLSA Changes Payroll





Follow along with your payroll handout →

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Important Dates and Information for Payroll

for A Basis Academic Staff switching from Monthly paychecks to Biweekly paychecks due to the new FLSA rules

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12/1/16 is the last Monthly Paycheck you will receive. This paycheck will include earnings for: 11/1/16 - 11/30/16.

 This check includes your normal full month's earnings. Your December benefits deduction will be processed on this payroll.

Your first Biweekly Paycheck will be issued on 12/22/16. This paycheck is a partial biweekly pay period since the effective date of your change to biweekly (12/1) falls within a biweekly pay period. This check will include earnings for: 12/1/16 - 12/10/16.

Any changes to your W4, direct deposit or general deductions are due 12/9/16 for your 12/22/16 paycheck.

Below are <u>deductions</u> (if enrolled) you should expect to see from your <u>December "A" payroll</u> (12/22/16), reducing your pay for an already shortened pay period. These deductions will cover January premiums unless otherwise noted:

- State Group Health Insurance
- Income Continuation Insurance (December Premium)
- VSP Vision Insurance
- EPIC Benefits +
- Dental Wisconsin
- Individual & Family Group Term Life Insurance
- UW Employees, Inc. Life Insurance
- AD&D Life Insurance
- Health Saving Account
- Flexible Spending Account
- 403(b) and 457(b)
- Wisconsin Retirement System
- Parking

Your second Biweekly Paycheck will be issued on 1/5/17. This is considered to be the December "B" payroll. Deductions you may see if enrolled on the "B" payroll:

- State Group Life Insurance
- Health Saving Account
- Flexible Spending Account
- Wisconsin Retirement System
- 403 (b) and 457(b)
- Parking

Your third Biweekly Paycheck will be issued 1/19/17, this is the January "A" payroll and you should expect to see your "A" payroll benefit deductions again.

Transportation and other general deductions may be affected by this change. Please reference the FLSA Rule Changes Document for details and action required. Contact payroll@ohr.wisc.edu with questions.



Biweekly Pay Schedule

- You'll be paid every two weeks, generally on Thursday
 - 26 pay periods a year for 12-month appointments
 - 20 pay periods a year for 9-month appointments
- Most months have two pay periods: "A" and "B"
- Twice a year, there's a third payroll in the month: "C"





A-Basis Employees: Biweekly Pay Schedule

Your **last monthly** check will be paid on <u>12/1/2016</u>. This is a full paycheck:

Pay Period: 11/1 - 11/30

Your **first biweekly** check will be paid on **12/22/2016**. This is a **partial** paycheck:

Pay Period: 12/1 - 12/10 Your <u>second biweekly</u> check will be paid on <u>1/5/2017</u>. This is a full paycheck:

Pay Period: 12/11 - 12/24



Deductions

• State Group Health

- Health Savings Account (only with HDHP)
- Income Continuation Insurance

Payroll "A"

- EPIC Benefits +
- Dental WI
- VSP Vision Insurance
- Individual Family Life Insurance
- AD&D Life Insurance
- UW Employee Inc. Life Insurance
- Flexible Spending Account
- Wisconsin Retirement System
- 403(b) and 457(b)
- Parking (if enrolled with Transportation)

Health Savings Account (only if HDHP)

Payroll "B"

- State Group Life Insurance
- Flexible Spending Account
- Wisconsin Retirement System
- 403(b) and 457(b)
- Parking (if enrolled with Transportation)

Payroll "C"

- Flexible Spending Account
- 403(b) and 457(b)
- Wisconsin Retirement System



Biweekly Pay Schedule

https://uwservice.wisconsin.edu/docs/publications/pay-unclbw-calendars-2017.pdf

Snapshot:

Pay Period	Pay Run ID	Pay Period	Pay Date
Nov A	2016BW11A	10/30/2016 - 11/12/2016	11/23/2016
Nov B	2016BW11B	11/13/2016 - 11/26/2016	12/08/2016
Dec A	2016BW12A	11/27/2016 - 12/10/2016	12/22/2016
Dec B	2016BW12B	12/11/2016 - 12/24/2016	01/05/2017
Jan A	2017BW01A	12/25/2016 - 01/07/2017	01/19/2017



Earnings Statements

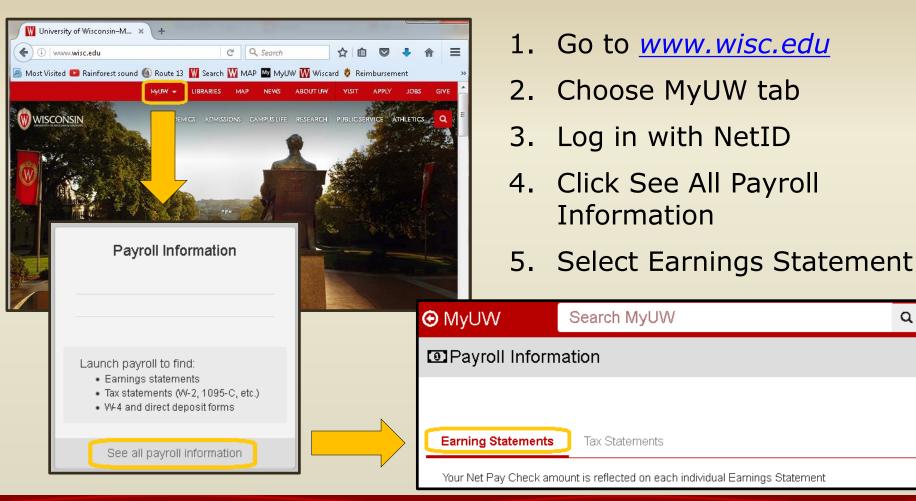


Always review your earnings statement each pay period – particularly if you made changes to your benefits, tax withholding, general deductions or **you switch pay schedules**.



Where do you find your Earnings Statements?

Q.





Tax Withholding

No action needed: Allowances and marital status. Payroll taxes will adjust to a biweekly calculation automatically.

Review & take action if needed: Additional Withholding. If you already have additional withholding amounts elected, and you take no action, the *per check deduction will stay* <u>the same</u> and your yearly amount will increase.

Check your withholdings on your earnings statement:

TAX DATA	Federal	WI State	
Marital Status:	Married	Married	
Allowances:	1	1	
Addl. Pct.:	0.000	0.000	
Addl. Amt.:	0.00	0.00	



Tax Withholding

To change your withholding, submit a new W4:

https://uwservice.wisconsin.edu/docs/forms/payemployee-withholding.pdf

Deliver on paper in person to OHR at 21 N. Park Street by 4PM on Friday, December 9th to ensure changes are in effect for your first biweekly check.

Do not submit over email

since sensitive information is included.



Direct Deposit

Current accounts and distribution will continue automatically.

Review & take action if needed. If you'd like to change your distribution, complete a new direct deposit form:

<u>https://uwservice.wisc.edu/docs/forms/pay-direct-</u> <u>deposit.pdf</u>

Deliver on paper in person to OHR at 21 N. Park Street by 4PM on Friday, December 9th to ensure changes are in effect for your first biweekly check.

Do not submit over email

since sensitive information is included.



General Deductions

State Vanpool –Action required. Contact your vanpool coordinator to complete a Vanpool Payroll Deduction Authorization form. Submit the canary yellow copy to OHR by <u>12/9/16</u>.

Partners In Giving –Action required. Email <u>payroll@ohr.wisc.edu</u> to decrease your deduction to meet your current annual goal.

Transportation – Automatically adjusted for you; monitor your earnings statement. Contact Betsy Bussan with questions: (608) 262-6021 or betsy.bussan@wisc.edu

Recreational Sports – Automatically adjusted for you. Contact Rec Sports with questions: (608) 262-4756 or <u>memberships@recsports.wisc.edu</u>



Retirement Deductions

Tax Sheltered Annuity – 403(b)

Review/Take action if needed. New Salary Reduction Agreement needed, otherwise same deduction will be taken from bi-weekly check

Wisconsin Deferred Compensation 457(b)

Review/Take action if needed. Must contact WDC otherwise same deduction will be taken from bi-weekly check

If you take no action, you will have higher annual contribution.



Garnishments

Review & take action if needed. Your per paycheck amount will be automatically adjusted for your new biweekly payroll – by UW System.

Monitor your earnings statement and contact the <u>UW</u> <u>Service Center</u> with any questions or concerns:

Call (608) 262-0600 or email <u>ag1@uwsa.edu</u>



Payroll Questions?



Payroll Services Office of Human Resources 21 N. Park Street Suite 5101 Madison, Wisconsin 53715

Phone: 608-265-2257 Fax: 608-265-6547

Email: payroll@ohr.wisc.edu

Office Hours: 7:45am - 4:30pm (Monday - Friday)



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FLSA Changes Benefits



<u>No change</u> due to FLSA changes

- State Group Health
- State Group Life Insurance
- Income Continuation Insurance
- EPIC Benefits +
- Dental WI
- VSP
- Individual Family Life Insurance
- AD&D Life Insurance
- UW Employee Inc. Life Insurance
- Flexible Spending Account
- Health Savings Account
- Wisconsin Retirement System





Reminders:

- If you are changing to non-exempt on December 1, you must wait to enroll via eBenefits until November 7, 2016
- Your enrollment window is **11/7/2016 11/11/2016**
- Open Enrollment ends on Friday, 11/11 at 4:30pm
- Note, most benefits are paid one month in advance:
 - Deductions from your 12/1/2016 (last monthly) paycheck will pay for December coverage.
 - Deductions from your 12/22/2016 (first bi-weekly) paycheck will pay for January coverage.



Benefits Questions?



Benefits Services

Office of Human Resources 21 N. Park Street Suite 5101 Madison, Wisconsin 53715

Phone: (608) 265-2257 Fax: (608) 265-1456

Email: benefits@ohr.wisc.edu

Office Hours: 7:45am - 4:30pm (Monday - Friday)



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FLSA Changes International Faculty & Staff



International Faculty & Staff

Who is affected? Employees in H-1B & E-3 status

Other immigration statuses:

- **J-1** No impact on immigration status
- **O-1** No impact on immigration status
- **TN** No impact on immigration status



Employees in Full Time H-1B Status or Full Time E-3 Status

- You can be paid a higher amount than what was originally approved on the petition through U.S. Citizenship and Immigration Services.
- If you have an increase in salary due only to the changes in FLSA, your division does not need to file an amended petition for you.

However, if you have an increase in salary due to FLSA and a change in duties, title, department, etc., your division will need to file an amended petition.



Employees in Part Time H-1B Status or Part Time E-3 Status

- You are (or should be) already documenting all of your hours worked.
- Although you are eligible for overtime according to FLSA, per U.S. Citizenship and Immigration Services policy, your approved petition prohibits you from working more hours than stated on the approved petition.

Therefore, overtime is not allowed or possible, per your immigration status.



Employees in Part Time H-1B Status (and Part Time E-3 Status)

- If you need to work more hours than permissible per approved petition, an amended petition must be filed and approved for you -- *before you work those* additional hours.
- These statuses are typically audited by the federal government.



International Faculty & Staff Questions?



International Faculty & Staff Services

Office of Human Resources 21 N. Park Street Suite 5101 Madison, Wisconsin 53715

Phone: (608) 265-2257 Fax: (608) 265-6547

Email: lscholars@ohr.wisc.edu

Office Hours: 7:45am - 4:30pm (Monday - Friday)



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FLSA Changes Paid Leave

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What is Compensatory Time? ("Comp Time")

Paid time off the job which is earned and accrued by an employee (instead of immediate cash payment) for overtime.

- accrual and usage is at the discretion of the school, college or division
- earned when working more than 40 hours in a work week (a work week is Sunday through Saturday)
- time and a half



Compensatory "Comp" Time

University Staff

Non-Exempt: Eligible

Exempt: May be eligible based on college/ school/ division policy

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Compensatory "Comp" Time

Academic Staff

Non-Exempt:

- A-Basis (12-month employees) are eligible
- C-Basis (9-month employees) are <u>not</u> eligible

Exempt: Formal comp time is not permitted



Compensatory "Comp" Time

Post-Degree Trainee & Program/Project Assistants:

Non-Exempt:

- A-Basis (12-month) are eligible tracked informally
- C-Basis (9-month) are <u>not</u> eligible

Exempt: Formal comp time is not permitted



Sick/ Personal/ Vacation Time

 Leave benefits including sick leave, personal holiday and vacation, will <u>not</u> change as a result of movement from exempt to non-exempt.

You will need to track usage in 15-minute increments, however.

 Note: University Staff employees who become nonexempt as a result of FLSA will continue to receive their current vacation accrual rate.

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Paid Leave Questions?



Workforce Relations

Office of Human Resources 21 N. Park Street Suite 5101 Madison, Wisconsin 53715

Phone: (608) 265-2257 Fax: (608) 265-3335

Email: wr@ohr.wisc.edu

Office Hours: 7:45am - 4:30pm (Monday - Friday)



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FLSA Changes Scheduling & Hours of Work

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As a non-exempt employee—

- You will need to record all hours worked (and leave taken) in 15-minute increments.
- You will be eligible for overtime, and will be compensated if you work overtime (over 40 hours worked in a work week).
- Your division/school/college may have additional guidelines about working overtime and may restrict or limit overtime.
 You must receive approval prior to working overtime.
- You will be paid for all hours you work, so it's important to record all of the hours you work. You cannot work "off the clock" or volunteer to do your work.



You <u>CANNOT volunteer</u> to do your work

A person is a *volunteer* only if the following criteria are met:

1. If an employee is performing volunteer work for UW–Madison, both

of the following conditions must be met:

The services are in a different general occupational category than that of the employee's regular employment.

The services are not closely related to the actual duties performed by, or responsibilities assigned to, the employee."

(continued on next slide)



You <u>CANNOT volunteer</u> to do your work

A person is a *volunteer* only if the following criteria are met:

2. The person receives no compensation; or the person is paid

expenses, reasonable benefits, or a nominal fee, in any combination,

to perform the services.

- A. Payment of expenses includes reimbursement for out-of-pocket expenses incidental to providing volunteer services (e.g., payment for the cost of meals and transportation)
- B. Benefits would be considered reasonable, for example, when individual volunteers are included in group insurance or retirement funds that are commonly or traditionally provided to volunteers of the agency.
- C. The total amount of payments (expenses, benefits, fees) must be examined to determine volunteer status.

For more information, see <u>Regulations 29 C.F.R. §553.103</u> regarding Public Sector Volunteers and the <u>UW-Madison Overtime Policy</u>.



Compensable time = "hours worked"



As a non-exempt employee, you must be paid overtime or receive compensatory ("comp") time credits at a rate of **1.5 hours** for every hour worked over 40 in a workweek.

- The workweek typically includes all time during which an employee is required to be at work.
- Hours worked does not include hours of paid leave (sick time, vacation, personal holidays).
- Overtime is based on more than 40 hours in a workweek, not "more than 8 hours in a day."



Meal and Break Periods



Paid work time includes meals in which you are not completely relieved of your duties or meals that are less than 30 minutes (e.g., working while eating lunch at your desk), and breaks of less than 20 minutes.

Non-paid work time includes meal periods of 30+ minutes in which you are completely relieved of duties (i.e., you are able to leave your work site).





For more information about hours worked & compensable time

General information is posted online on the OHR FLSA website:

http://www.ohr.wisc.edu/compensation/flsa.aspx

For more *in-depth* information, however, please reach out to your unit's human resources and/or payroll office, and your supervisor or manager.



Talk with Your Supervisor

Your unit (college/school/division, department and/or supervisor) may establish guidelines regarding work schedules, deviating from those schedules, overtime usage, and/or overtime approval.

- You may need to use <u>leave time</u> when arriving late or leaving early (15 minutes or more), as determined by the college/school/division, department, or supervisor.
- If you have <u>scheduled hours of work</u>, as determined by your college/school/division, department, or supervisor, you will need to get approval to deviate from that schedule.



It's important to follow procedures...

If you fail to follow your unit's procedures for scheduling and hours of work, you may be subject to disciplinary consequences.

Not following procedures could include:

- Working *less* than scheduled daily hours without use of leave or without receiving prior approval.
- Working *more than* your scheduled daily hours without approval.
- Working more than 40 hours in a week (overtime) without prior approval.
- Deliberately failing to include all hours worked on timesheet.



Four things you can do to adjust to the changes:

- 1. Verify with your supervisor if you will have a designated work schedule.
- 2. Clarify your unit's approval process for deviating from the schedule.
- 3. Verify your unit's call-in procedures for absences and late arrivals.
- 4. Clarify your unit's overtime approval process.



Scheduling & Hours of Work – Questions?



Workforce Relations

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Email: wr@ohr.wisc.edu

Office Hours: 7:45am - 4:30pm (Monday - Friday)



- 1. Your supervisor and your division's Human Resources staff
- 2. UW-Madison FLSA Website: <u>ohr.wisc.edu/compensation</u>

(copies of all Forum materials will be posted here)

3. UW-Madison FLSA email address: <u>flsa@ohr.wisc.edu</u>

*Before emailing, please contact your division HR Office first





4. Please contact **Cultural Linguistic Services** to request language support

Chinese / English

Shuwen Li (李书文) (608) 890-2628 or shuwen.li@wisc.edu

Hmong / English

Jzong Thao (Ntsuabzoov Thoj) (608) 263-2217 or jzong.thao@wisc.edu

Spanish / English

Delia Gutiérrez-Cortés (608) 265-0838 or delia.gutierrezcortes@wisc.edu

Tibetan / English

Yangbum Gyal (གཡང་འབུམ་རྒྱལ) (608) 890-2545 or yangbum.gyal@wisc.edu

English learning

Jen Sell (608) 265-6651 or jennifer.sell@wisc.edu



What questions do you have today?



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