**Implementation Guidelines for Academic Personnel Offices
Compliance with Department of Labor Increase in Minimum Salary Threshold

Reclassification to Non-Exempt Part-Time Academic Appointees Below the DOL Salary Threshold**

Beginning on January 1, 2020, certain part-time non-teaching and non-medical academic appointees who are currently exempt from earning overtime must be reclassified as non-exempt because their earnings fall below the new Department of Labor (“DOL”) overtime threshold of $684 per week (equivalent to $2,964 per month or $35,568 per year) to remain exempt.

* The University must comply with the DOL overtime rule by January 1, 2020.
* To facilitate a smooth transition, each campus/location will implement on its own schedule the necessary measures to comply with the new threshold ensuring that all reclassifications are in place for work performed on or after January 1, 2020.

These Implementation Guidelines are intended to assist Departments with the transition of academic appointees from exempt to non-exempt status. If you have further questions, please contact Kelly Anders in Academic Affairs at kanders@ucdavis.edu.

1. Title/job codes are available for non-exempt academic appointees.
2. For appointees determined to be non-exempt:
	1. They must be appointed in the appropriate non-exempt version of their title no later than January 1, 2020 (the effective date of the new DOL regulation).
	2. New appointment letters (consistent with APM - 137) must be issued and include the appropriate hourly rate of pay. *See attached template.*
	3. Their current monthly salaried appointments must be ended effective no later than December 31, 2019.
	4. No later than January 1, 2020, all non-exempt appointees must be paid biweekly on an hourly basis.
		1. The latest monthly salaried-basis partial paycheck is on January 2, 2020 for work completed December 1, 2019 through December 28, 2019.
		2. The latest pay period to start biweekly pay is December 29, 2019 through January 11, 2020 for a biweekly pay date of January 22, 2020.
	5. It is important that reclassified appointees be encouraged to review their personal budget situation, automatic bill pay, and deductions to plan for the biweekly pay conversion.
	6. Appointees transitioning from monthly to biweekly pay will have factor accrual of vacation and sick leave, rather than table accrual.
3. How to Determine FLSA Status:
	1. Non-instructional appointees whose earnings fall below the threshold will be non-exempt.
	2. To help in determining if a part-time employee’s earnings are likely to fall below the threshold, please see the attached Excel workbook. This tool identifies for each affected series, rank and step the minimum percentage of effort at which an appointee’s earnings would be expected to meet or exceed the annual threshold
	3. The FLSA salary threshold test assesses whether the appointee earns at least $684 per week. Therefore, annual pay rate and percentage of appointment are only general guides to determining FLSA status; actual regular earnings must also be monitored.
	4. Percentage of effort threshold calculations for titles with salary ranges, and for appointees paid off- or above-scale, must be done separately.
	5. Other factors of an appointee’s employment may affect FLSA status, including whether the appointee holds multiple concurrent appointments in different titles, or receives a regular stipend that increases weekly earnings.
4. Appointees with fluctuating appointment percentages may be non-exempt.
	1. For an exempt appointee, temporary reductions in appointment at the employee’s request may not affect FLSA status; see FMLA instructions for further information.
	2. If an appointee’s percentage of time is reduced for funding reasons or other business reasons, this may trigger a switch to non-exempt status.
	3. Frequent shifts from exempt to non-exempt status are inadvisable; it is a great inconvenience to the appointee to shift from monthly to biweekly pay and back again, and it could jeopardize UC’s compliance with FLSA regulations.
		1. If available funding is expected to be insufficient to guarantee that an appointee will remain above $684 per week for the entire fiscal year, that appointee should be classified as non-exempt and overtime eligible.
5. Appointees on Leave
	1. Exempt appointees on leave are generally not required to be reclassified as non-exempt.
	2. Exempt appointees whose earnings fall below the threshold because they are on partial leave without pay may potentially retain their exempt status.
6. Multi-location appointments
	1. If an appointee holds concurrent appointments at more than one UC location, the appointee’s primary duties as well as earnings from both locations must be taken into account when determining FLSA status.
7. The teaching exception and split appointments
	1. Under the FLSA, a University employee can only have one FLSA status, overtime exempt or non-exempt/overtime eligible. In determining whether an employee with multiple appointments is exempt or non-exempt, the University must review the appointee’s primary duty for the University. Appointees with below-threshold earnings who hold part-time research/administrative appointments and concurrent teaching appointments may be classified as exempt or non-exempt, depending on the individual’s primary duty. For an employee to be designated as exempt, the appointee’s primary duty at the University should be the performance of exempt tasks.
8. Without salary appointments
	1. Generally, if the without salary appointee is not earning compensation from UC, they are not considered an employee covered by the Fair Labor Standards Act.
	2. Holding a without salary teaching appointment does not by itself automatically mean that an appointee is exempt (per the FLSA teaching exception).
		1. An administrative/research appointee with below-threshold earnings will be classified as non-exempt, even if they hold a WOS teaching appointment.
9. Affiliate appointments - UC Faculty
	1. The terms of the affiliation agreement between UC and the affiliate govern the employment status of UC faculty placed at affiliate institutions. However, the affiliation agreement will not always be available to you for review.
	2. If the UC faculty member is not earning compensation from UC and is placed at an affiliate institution, they are not considered a UC employee covered by the FLSA.
	3. If the UC faculty member is earning compensation from UC and is placed at an affiliate institution, they are considered a UC employee covered by the FLSA.
	4. HHMI/Ludwig appointees continue to be defined as employees of HHMI/Ludwig; however, if an affiliate employee holding a without salary UC faculty title who is appointed to an administrative title does not by itself automatically mean that an appointee is exempt (per the FLSA teaching exception).
		1. An administrative/research appointee with below-threshold earnings will be classified as non-exempt, even if they hold a WOS teaching appointment.
	5. UC faculty with split appointments, i.e., those with 5/8th VA and 3/8th UC appointments may be classified as exempt or non-exempt, depending on the individual’s primary duty. For an employee to be designated as exempt, the appointee’s primary duty at the University should be the performance of exempt task (see #7 above).
10. Recall appointments
	1. Faculty Recalls are exempt, due to the teaching exception.
	2. Non-faculty Recalls are exempt or non-exempt, depending on the duties performed and salary earned.
11. Advising PIs/Supervisors
	1. As hourly-paid employees, non-exempt appointees must record their time on a daily basis and submit timesheets to report their hours for each biweekly pay period, and the supervisor will be required to review and approve the hours reported every other week.
		1. Supervisors must be provided with the appropriate method of timekeeping, whether in electronic or paper format.
		2. Expectations as to timekeeping and record retention should be reviewed with supervisors.
	2. The work week is defined as Sunday through Saturday.
	3. Time worked as well as vacation leave and sick leave hours taken must be recorded in increments of ¼ hour (15 minutes).
	4. Non-exempt appointees will be paid for all hours (and partial hours) worked.
	5. Overtime and time worked beyond appointment percentage.
		1. Part-time appointees who work more than their stated appointment percentage, but less than 40 hours in a week, will receive pay for the extra hours (or partial hours) worked at their straight-time hourly rate.
		2. A non-exempt appointee will receive pay at the premium overtime rate for any time worked in excess of 40 hours in a week, regardless of their appointment percentage.
		3. Overtime will be compensated in pay unless your campus allows for compensatory time arrangements (“comp time”).
		4. All overtime/additional time worked in excess of appointment percentage must be approved in advance by the supervisor.
			1. If an appointee submits a timesheet that reports non-approved time, they still must be paid for that time.
			2. However, working unapproved overtime/additional time can be cause for disciplinary action. Also, if an appointee is regularly working overtime/additional time, the appointee’s appointment percentage should be adjusted.
	6. Other compensable time for non-exempt appointees includes:
		1. *Donning and Doffing.* Time spent changing into or out of protective clothing or engaging in special washing or cleaning procedures is considered time worked.
		2. *Travel Time*. If the appointee does not have regular working hours, the supervisor will assign regular work hours for any workweek during which travel will occur for the purpose of identifying and tracking compensable travel time. The travel during the appointee’s regular working hours is considered time worked. Travel time outside of the assigned regular work hours is not time worked, unless actual work is performed during that time. *See PPSM 30 for more information.*
		3. *Rest Breaks.* The University makes accommodation for breaks during the work day. Meal breaks are not considered compensable time (i.e., a lunch break should not be recorded as time worked).