

Implementation Guidelines for Academic Personnel Offices

Compliance with Department of Labor Increase in Minimum Salary Threshold

Reclassification of Non-Exempt Academic Appointees Below the Department of Labor (DOL) Salary Threshold

The Department of Labor (DOL) has issued revised regulations regarding the Fair Labor Standards Act (FLSA) exemptions from minimum wage and overtime pay requirements for executive, administrative, and professional employees. The revisions include increasing the exempt-salary threshold and adding a mechanism that will allow for periodic updating of the salary threshold.

The DOL will implement the salary threshold increase in tiers. Beginning on July 1, 2024, certain 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 DOL overtime threshold of \$844 per week (equivalent to \$3,657.33 per month or \$43,888 per year) to remain exempt.

Beginning on January 1, 2025, certain non-teaching and non-medical academic appointees who are currently exempt from earning overtime must be reclassified as non-exempt because their earnings will fall below the new DOL overtime threshold of \$1,128 per week (equivalent to \$4,888 per month or \$58,656 per year) to remain exempt.¹

Following the increase in the threshold to \$58,656 on January 1, 2025, the threshold will be set again on July 1, 2027 (and every three years after).

To facilitate a smooth transition, each campus/location will need to ensure that all reclassifications are in place before the effective dates of the new DOL overtime thresholds for any work that will be performed on or after the effective dates of the new thresholds.

1. For appointees determined to be non-exempt as of January 1, 2025:
 - a. They must be appointed in the appropriate non-exempt version of their title (and associated non-exempt salary scale, if applicable) no later than January 1, 2025.
 - b. New appointment letters (consistent with [APM - 137](#)) must be issued and include the appropriate hourly rate of pay. *See attached template.*
 - c. Their current monthly salaried appointments must be ended effective no later than December 31, 2024.

¹ Junior Specialists falling below the threshold will need to be reclassified as non-exempt. For those Junior Specialists with an offscale component, campuses may adjust the offscale to bring the salary above the threshold.

- d. No later than January 1, 2025, all non-exempt appointees must be paid biweekly on an hourly basis.
 - i. Employees will receive their last monthly salaried-basis paycheck on January 2, 2025, for the full month of December pay.
 - 1. Benefits deductions in this paycheck include:
 - a. Disability benefits for the month of December.
 - b. All other benefits for the month of January.
 - ii. Employees will receive their first biweekly paycheck on January 15, 2025, for work completed January 1, 2025, through January 4, 2025.
 - 1. Benefits deductions in this paycheck include:
 - a. Second ½ of January benefits deductions for disability, FSA, and HSA accounts.
 - b. Second ½ of February deductions for all other benefits.
 - iii. Employees will receive their second biweekly paycheck on January 29, 2025, for work completed January 5, 2025, through January 18, 2025.
 - 1. This biweekly paycheck is a benefits deductions holiday; no benefits deductions will occur.
 - iv. Employees will receive a biweekly paycheck on February 12, 2025, for work completed January 19, 2025, through February 1, 2025.
 - 1. Benefits deductions in this paycheck include:
 - a. First ½ of February benefits deductions for disability, FSA, and HSA accounts.
 - b. First ½ of March deductions for all other benefits.
 - v. The UCPath benefits team will review and reconcile benefits deductions, as needed.
 - 1. Missed and over-collected premiums will be identified:
 - a. Any missed disability deductions for the first ½ of January.
 - b. Any over-collected contributions to FSA and HSA accounts for January.
 - c. Any other missed benefits deductions for the first ½ of February.
 - 2. Employees will be notified in advance of any action to collect or refund amounts in an upcoming check (check date TBD).
 - 3. Note: the timing of premium deductions during the transition, and the reconciliation process that follows, will not cause any lapse in benefits.
2. For appointees determined to be non-exempt:

- a. It is important that reclassified employees be encouraged to review their personal budget situation, automatic bill pay, and deductions to plan for the biweekly pay conversion.
 - b. Each campus should consider offering a transition assistance vacation cash-out program to eligible appointees who are transitioning from a monthly to a biweekly pay cycle as an option to assist them in meeting their financial obligations during the transition period.
 - i. It is recommended that any such program be limited to 80 hours of accrued vacation leave for eligible appointees who have the accrued hours in their vacation bank.
 - ii. Any cash-out should be processed by the normal payroll process (i.e., subject to taxes and percentage-based deductions) using the appointee's current hourly rate. In UCPath, the cash-out should be processed as additional pay in accordance with the Job Aid: Academic Personnel Vacation Cash Out Workaround.
 - iii. Campuses that decide to offer this program should limit the cash-out to one request during a defined request period. A template application form is enclosed.
 - c. 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:
- a. Non-instructional, non-student appointees whose earnings fall below the threshold will be non-exempt.
 - b. To help in determining if a part-time employee's earnings are likely to fall below the threshold, UC Academic Personnel and Programs (APP) will develop Excel workbook calculators. This tool will identify 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. APP will distribute this tool to Associate Vice Chancellors/Associate Vice Provosts of Academic Affairs/Academic Personnel once it is available.
 - c. In anticipation of the July 1, 2024, increase in the DOL exempt-salary threshold, the FLSA salary threshold test assesses whether the appointee earns at least \$844 per week. For the January 1, 2025, increase in the exempt-salary threshold, the FLSA salary threshold test assesses whether the appointee earns at least \$1,128 per week. Annual pay rate and percentage of appointment are only general guides to determining FLSA status; actual regular earnings must also be monitored.
 - d. Percentage-of-effort threshold calculations for titles with salary ranges, and for appointees paid off- or above-scale, must be done separately.

- e. 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.
 - a. For an exempt appointee, temporary reductions in appointment at the employee's request may not affect FLSA status.
 - b. If an appointee's percentage of time is reduced for funding reasons or other business reasons, this may trigger a reclassification to non-exempt status.
 - c. 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.
 - i. If available funding is expected to be insufficient to guarantee that an appointee will remain above \$844 per week for the period July 1, 2024, through December 31, 2024, and above \$1,128 for the period January 1, 2025, through the end of the fiscal year, that appointee should be classified as non-exempt and overtime eligible.
 5. Appointees on Leave
 - a. Exempt appointees on leave are generally not required to be reclassified as non-exempt.
 - b. 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
 - a. If an appointee holds concurrent appointments at more than one UC location, the appointee's primary duties as well as earnings from all locations must be taken into account when determining FLSA status. 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. Consultation and coordination between locations is recommended.
 7. The teaching exception and split appointments
 - a. As noted in item 8, above, 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 (WOS) appointments

- a. 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.
- b. Holding a without-salary teaching appointment does not by itself automatically mean that an appointee is exempt (per the FLSA teaching exception).
 - i. 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

- a. 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.
- b. 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.
- c. 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.
- d. 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).
 - i. An administrative/research appointee with below-threshold earnings will be classified as non-exempt, even if they hold a WOS teaching appointment.
- e. 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 tasks (see #9 above).

10. Recall appointments

- a. Faculty Recalls are exempt, due to the teaching exception.
- b. Non-faculty Recalls are exempt or non-exempt, depending on the duties performed and salary earned.

11. Advising PIs/Supervisors

- a. 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 of record in the timekeeping system will be required to review and approve the hours reported every other week.

- i. Supervisors must be provided with the appropriate method of timekeeping, whether in electronic or paper format.
 - ii. Expectations as to timekeeping and record retention should be reviewed with supervisors.
- b. The workweek is defined as Sunday through Saturday.
- c. Time worked as well as vacation leave and sick leave hours taken must be recorded in increments of ¼ hour (15 minutes).
- d. Non-exempt appointees will be paid for all hours (and partial hours) worked.
- e. Overtime and time worked beyond appointment percentage.
 - i. 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.
 - ii. 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.
 - iii. Overtime will be compensated in pay unless your campus allows for compensatory time arrangements (“comp time”).
 - iv. 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.
- f. Other compensable time for non-exempt appointees includes:
 - i. *Donning and Doffing*. Time spent changing into or out of protective clothing or engaging in special washing or cleaning procedures is considered time worked.
 - ii. *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.*

- iii. *Rest and Meal Breaks.* The University provides rest breaks during the work day. Meal breaks are not considered compensable time (i.e., a lunch break should not be recorded as time worked).