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Legal Updates:

Stay on Top of Wage & Salary
Issues





Fair Labor Standards Act - History

- Enacted June 25, 1938
 - FDR New Deal legislation (recovery from Depression)
- Established:
 - Minimum wage (25 cents / hr.)
 - Maximum workweek (44 hrs.)
 - Overtime pay standards
- Prohibited child labor



Administration and Enforcement:

FLSA administered by:

- U. S. Department of Labor
 - Employment Standards Administration
 - Wage & Hour Division



Who is a Covered Employer?

- FLSA covers any:
 - business or enterprise
 - engaged in interstate commerce
 - with annual gross business / sales over \$500,000
- Lehigh is a covered employer



Who is a Covered Employee?

“Employee” = “any individual employed by an employer”

HOWEVER ...

Some employees are exempt from FLSA
(more on this later...)



Covered or Nonexempt Employees

FLSA Requirements:

- Minimum wages → \$5.15 / hr. (currently)
- Maximum hours → Workweek may not exceed 40 hr / wk. UNLESS employee receives ...
- Overtime pay → At least 1½ times regular rate of employee's pay



Covered (or Nonexempt) Employees

FLSA Requirements (continued)

- Recordkeeping →

Every employer must make, keep, and preserve records of employee wages, hours and other conditions of employment of its employees as Secretary of Labor shall require for enforcement of FLSA.

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Covered (or Nonexempt) Employees

What Constitutes “Hours Worked” ?



“Exempt” Employees

Who is exempt from FLSA?

- Several exemptions
- 1st category of exempt employees:
 - “Any employee employed in a bona fide executive, administrative, or professional capacity”
(known as “white collar” exemptions)



“Exempt” Employees

Other exemptions:

- Certain highly skilled computer workers
 - e.g., computer systems analysts, computer programmers, software engineers
- Outside sales personnel
- Certain agricultural workers
- ...etc.



How is exemption determined?

- U. S. Department of Labor regulations
 - “Duties” requirements for each category of exemption:
 - Executive
 - Administrative
 - Professional
 - “Salary basis” requirement
 - Minimum salary requirement

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What's New Under the FLSA ?

New U.S. Dept. of Labor Regulations
under FLSA

Enacted: April 23, 2004

Effective Date: August 23, 2004



New Dept. of Labor Regulations

- Increase minimum salary requirement for an employee to be exempt from:

\$ 155 / wk (\$8,060 / yr)

to



\$ 455 / wk (\$23,600 / yr)

(Largest minimum exempt salary increase since 1938 FLSA enactment)

(Minimum exempt salary had not been increased since 1975)



New Dept. of Labor Regulations

- Revised “duties” requirements for executive, administrative, and professional (“white collar”) employees
 - Intended to clarify and simplify “duties” definitions to protect nonexempt employees from unscrupulous employers seeking to avoid overtime pay obligations and to protect honest employers seeking to comply

”Duties” requirements outdated; not revised since 1949

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New FLSA Regulations:

Issues for Higher Education



New FLSA Regulations: Issues for Higher Education

Increase in minimum salary requirement for
exempt employees

from: \$155 / wk. (\$8,060 / yr.)



to: \$455 / wk. (\$23,600 / yr.)



New FLSA Regulations: Issues for Higher Education

Standardization and simplification of “duties” requirements for exemptions

Past: “Long” and “Short” Duties Tests

New: “Standard” Duties Tests for each category of exemption



New FLSA Regulations: Issues for Higher Education

Exempt Administrative Employee definition:

Limited to employees whose primary duty is performing administrative functions “directly related to academic instruction or training in an educational establishment.”



New FLSA Regulations: Issues for Higher Education

- Exempt Employees
 - Proper application of exemptions
 - Accurate job descriptions
- Nonexempt Employees
 - Proper recording of actual time worked
 - Avoid shifting of hours across weeks
(“comp time”)

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- Entry level staff positions
- Coaches (Assistant & Seasonal)
- Research Assistants
- Research Interns
- Teaching Assistants
- Graduate Assistants
- Part-time positions

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Staff Compensation Project