

## NC STATE HUMAN RESOURCES

### NOTICE OF CHANGES TO FAIR LABOR STANDARDS ACT (FLSA)

**EFFECTIVE 12/1/16**

The Department of Labor (DOL) recently passed significant changes to the Fair Labor Standards Act (FLSA) resulting in more employees being subject to timekeeping and overtime compensation. The changes are effective December 1, 2016.

FLSA regulations categorize employees as either “exempt” or “non-exempt” for purposes of being subject to timekeeping and overtime requirements (awarding comp time or paying time and a half for every hour physically worked over 40 hours in one week). At NC State, the regulation applies to all employee categories. It also provides exemptions for certain types of roles including those that are primarily instructional/teaching in nature (including coaches whose primary duty is instructing athletes in performance of a sport); graduate teaching assistants; resident advisors (who receive room and board); some academic administrators; as well as, employees who perform roles that meet the “duties” tests established by DOL related to work in the executive, administrative, and professional fields. Employees who are highly compensated (\$134,004+) can also be exempt.

Human Resources (HR) and General Counsel have been monitoring these potential changes and sharing information with campus partners for more than a year and have been working with UNC General Administration, national organizations such as CUPA-HR, and peer institutions to ensure NC State is well-prepared to promptly react to the changes. Now that the regulation is final, HR and General Counsel will be partnering with the Provost’s Office, Internal Audit, and others to strategically use all of the flexibility available in the regulation to minimize impact to campus.

#### **SIGNIFICANT IMPACTS OF THE REG**

In the revised regulation, to be FLSA “exempt” an employee must primarily perform “exempt” duties AND must be paid a salary of at least \$913/week or \$47,476/year. This new threshold is anticipated to impact many of our employment groups including staff, student employees, temps, post docs, coaches, and some faculty. We’ll be providing more detailed information about the affected groups in the near future.

#### **WHAT TO EXPECT AS WE MOVE FORWARD**

- Regular communication on the implementation progress.
- Informational meetings to be held across campus to educate supervisors and employees.
- Meetings with individual colleges and divisions to help identify the best options and solutions to fit business needs.
- Audit of positions for appropriate classification as exempt or non-exempt.
- Guidance on awarding of salary increases to meet the salary threshold.
- Instructor led and online timekeeping and FLSA training.

## **TIPS TO MINIMIZE THE IMPACT**

- Review the overtime expenditures in your department for the current fiscal year to determine how much is being spent and for which positions.
- Review job descriptions and tasks for positions. Some positions that are exempt may become non-exempt. Consider consolidating exempt-level duties into fewer positions to strengthen key positions in your organization.
- If budget allows and if duties support that a position may be exempt (i.e. appropriately meets the DOL exemption criteria), consider raising the salaries of employees to meet the \$913/week (\$47,476/year) threshold to keep them in exempt status. Keep in mind that consideration must also be given to salary equity, compression, and subordinate/supervisor salary levels.
- Ensure that employees are accruing compensatory time in the leave system rather than being automatically paid out for overtime hours.
- Consider hiring additional temporary or permanent employees to minimize overtime of current employees who consistently work more than 40 hours per week (if economically feasible). This may also prevent burnout and improve productivity and safety.
- Ensure that budget planning in grant proposals accounts for the additional costs of future overtime for employees.
- Use different work schedules and shifts to meet work demands. For example, change an 8 – 5 schedule to noon to 8:00 pm if regular responsibilities occur after normal business hours.
- Cross-train employees to reduce the dependency on employees who are required to work overtime due to their expertise in specific areas.
- Reduce FTE for positions where 40 hours are not regularly required to meet business needs.
- Use flexible scheduling to accommodate occasional hours outside of the typical scheduled workweek; for example, flex an employee's schedule to meet weekly work demands, such as 8 – 5 M, 1 – 9 Tuesday, 8 – 5 WTHF.
- Plan for cyclical and seasonal activity. If an employee works excessive hours in the summer but is not as busy in the winter, the employee can accumulate compensatory time in the summer and then take it off in the winter.

## **FOR MORE INFORMATION**

Please contact Sarah Lannom, Associate General Counsel, at 515-2333 or [sarah\\_lannom@ncsu.edu](mailto:sarah_lannom@ncsu.edu)

or Kathy Lambert, Interim Associate Vice Chancellor for Human Resources, at 515-4277 or [kathy\\_lambert@ncsu.edu](mailto:kathy_lambert@ncsu.edu)

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