

Changes to the Fair Labor Standards Act (FLSA)

MCG Faculty Senate

October 20, 2016

Today's Agenda

- The new federal regulations
- Implementation status
- What comes next

FLSA Final Rule

- Final Rule announced on May 18, 2016
 - Salary threshold **\$47,476 (\$913 per week)**
(This is more than twice the current threshold of \$23,660)
 - Increased salary threshold is effective on December 1, 2016
 - Includes automatic updates to a new salary threshold every three years
 - No changes to the “duties test”
 - The law impacts employers across the country. **All employers must comply.**
 - The DOL intent was to make more employees non-exempt and eligible for overtime.

FLSA Activities at AU

- Since fall 2015, Human Resources and Institutional Leaders:
 - Analyzed the list of potentially impacted employees
 - In September 2015, our exempt employees below the proposed \$50,440 threshold were:
 - » 829 University
 - » 143 Medical Center
 - » 35 Medical Associates
 - With our final numbers, exempt employees below the \$47,476 threshold include:
 - » 699 University
 - » 98 Medical Center
 - » 15 Medical Associates
 - Worked to identify issues and concerns; included at least 2 reviews of impacted employees by college/division
 - Communicated with other organizations on their plans for implementation

AU Impact

- Within the AU numbers, positions span the organization
- Every college has impacted employees
- Every administrative department has impacted employees
- Every VP in the Medical Center & Medical Associates has impacted employees
- Positions span almost every profession
 - Research professionals, including postdocs
 - Financial & Administrative professionals
 - Academic and Student Services
 - HR
 - Audit
 - Health Services
 - Athletics
 - Information Technology

MCG Impact

- 211 exempt employees changing to non-exempt
- 111 exempt employees requiring salary adjustments to remain exempt, including 96 postdoctoral fellows
- 10 Assistant Research Scientists requiring salary adjustments to remain exempt (these positions are not covered by the “teacher” exemption to the salary threshold requirement)

FLSA Activities at USG

- USG began to provide Guidance/Direction in August 2016
- USG has:
 - Encouraged universities and colleges to engage financial institutions, such as credit unions
 - Developed the annual leave cash out option
- USG is also providing specific communications for distribution to employees
- Policy updates from the USG are also underway & expected

FLSA Implementation Date

– **OCTOBER 23, 2016 is the effective date for Employees changing to Non-Exempt**

- New date based on input from the Employee Advisory Council
- Requested and received approval for the USG for an alternative implementation date of October 23
- **Revised letters sent to impacted employees reflecting the October 23 implementation date**
- This results in a full paycheck for the first bi-weekly pay period ending on November 5

– **Employees remaining exempt will receive increases effective December 1, 2016**

What is Not Changing

- Employee's annual budgeted compensation will not change, unless adjusted to maintain exempt status
- Employee's job and job title will not change
- Employee's supervisor will not change
- Employee's benefits will not change

What is Changing

- University Schedule (Based on the approved USG Implementation Date of October 23, 2016) for Employees changing to non-exempt
 - Employees will receive last check under monthly payroll cycle on October 31, 2016. This paycheck will be for the period of October 1 through October 22.
 - Employees will begin to record time worked using TimeNet on October 23, 2016. Recording hours worked is an FLSA requirement.
 - Employees will receive first check under the bi-weekly pay schedule on Thursday, November 10 for the pay period ending November 5, 2016.
 - Employees will receive the next check under the bi-weekly pay schedule on Wednesday, November 23 for the 14 day pay period ending November 19, 2016.

FLSA Changes

- Transition Assistance for Employees changing to non-exempt
 - USG is offering employees the opportunity to “cash out” up to 48 hours of their annual leave and unscheduled holiday leave to help with the transition.
 - This is a one-time only option limited to affected employees only.
 - This is a voluntary option.
 - Employees with fewer than 48 hours will be allowed to use their full available annual leave balance.
 - Employees will not be able to buy back hours at a later date.
 - Employees electing this option will receive the vacation and/or unscheduled holiday along with their regular pay for hours worked.
 - USG has encouraged institutions with credit unions to make arrangements for the credit unions to provide 0% to low interest loans. HCCU will provide these for AU employees.
 - Budget Planning information sessions will be provided by HCCU and TIAA (arranged by USG)
 - Employees are encouraged to contact their banking institution to address any automatic drafts they may have set up so that modifications can be made due to the change in pay frequency.

FLSA Transition – HCCU Support

- **FLSA Bridge Loan Option up to \$2,000:** For those employees who are impacted by the change to non-exempt. Three (3) easy repayment options. Applications will be accepted between October 1 and December 31.
- **HCCU Skip-A-Pay:** Will allow current members with an existing loan to have monthly payments recalculated and converted to bi-weekly and the next due date extended to 12/9/16 or later based on application date. (\$25 Processing Fee)
- **To apply for either the FLSA Bridge Loan or the Skip-A-Pay option, please contact Mercedes Petkus at Mpetkus@augusta.edu or 706.434.1641 for an appointment.**

Manager Do's and Don'ts

- DO set expectations around hours to be worked weekly.
- DO evaluate work responsibilities to determine how the work can be done within 40 hours each week.
- DO set expectations around employees responding to emails, texts or phone calls after hours.
- DO be clear with employees that they must request and receive your approval before working any overtime.
- DO be clear with employees that all time worked must be captured within TimeNet. *TimeNet is the University system of record for recording all time worked.*
- DO be clear that working “off the clock” is not permitted. This could become an FLSA violation and subject the university to fines and other penalties.

Manager Do's and Don'ts

- DO consider flexible scheduling within each work week to minimize the need for overtime.
- DO monitor TimeNet during the week to identify any employees who may be trending to exceed 40 hours in the week.
- DO emphasize and support compensatory time before direct overtime pay. This is in keeping with longstanding and current institutional practice.
- DO monitor compensatory time and ensure that it is being used throughout the year and before June 30th.
- DO recognize your budget management responsibilities and that any decision to make direct payment for overtime must be supported by your departmental/unit/grant budget. *Departmental budgets will not be supplemented to cover overtime.*

Manager Do's and Don'ts

- DON'T allow employees to work “off the clock” or “volunteer” and address immediately if you determine that they have done this. (Recognize that you may have to follow up with corrective action if the employee continues to “work off the clock.”)
- DON'T say or do anything to imply that employees must work “off the clock.” This is a direct violation of the FLSA and will subject the University to fines and penalties.
- DON'T email, call or text after hours without being clear about response expectations. Set expectations up front and understand that our ability to work through technology will need to be counted as time worked, unless “de minimis.”
- DON'T underestimate that employee's are researching the FLSA and may have questions; please be sure to engage HR before answering.

FLSA Final Reminders

- A potential shift from exempt to nonexempt status is not a reflection on personal performance or importance of an individual's contribution.
- We will continue to value all employees and count on the continued professionalism of all.
- The FLSA is a federal law that impacts employers across the country. **All employers must comply.**
- The DOL's intent was to make more employees non-exempt and eligible for overtime.

FLSA Changes

Questions?

Please check Jagwire regularly for updates.