

Frequently Asked Questions

FLSA Changes for 2016

1. Q: What is the Fair Labor Standards Act (FLSA)?

A: The Fair Labor Standards Act (FLSA) is the federal wage and hour law, administered by the U.S. Department of Labor (DOL). It effects employees in both private and public sectors by establishing minimum wage, overtime pay, and other wage and hour regulations. Employees are either non-exempt or exempt from the provisions of the FLSA.

2. Q: What does it mean to be exempt or non-exempt?

A: Exempt employees are excluded from the overtime requirements of FLSA. Non-exempt employees are eligible to be paid overtime for time worked in excess of 40 hours in any workweek. The following three tests determine the exemption status of an employee:

- Salary Basis Test: receives a predetermined, fixed salary that cannot be reduced due to variations in quality or quantity of work performed
- Minimum Salary Test: must be paid an amount above the current salary threshold of \$455 per week or \$23,660 annually
- Duty Test: must qualify as an executive, administrator, professional, or computer professional as defined in the FLSA

3. Q: What is changing?

A: We do not know exactly what changes will be made until the final rule is published. However, one change is certain—there will be an increase in the minimum salary test level required for exemption. The DOL has proposed to raise the minimum salary threshold from \$455 to \$970 a week or \$50,440 annually. The proposed changes, if enacted, could impact 5–6 million employees nationwide; this includes some Purdue employees.

4. Q: When will the proposed changes become effective?

A: The timeline is uncertain. The DOL recently sent the final rule to the Office of Management and Budget (OMB). This is the final step before the rule is published. We anticipate that the final rule will be published within the next 60 to 90 days.

5. Q: Are faculty excluded from these changes?

A: Some faculty and instructors are excluded from these changes if their primary duty is teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge, and if they are employed and engaged in this activity as a teacher in an educational establishment. Employees whose primary duty is teaching will remain exempt regardless of their salaries.

6. Q: How do the proposed changes affect an employee who is part-time or less than 100% CUL?

A: The minimum salary threshold is not pro-rated for part-time work. For example, an employee with an annualized salary of \$60,000 (an amount over the salary minimum) with an 80% CUL appointment is actually paid \$48,000. If the proposed salary minimum of \$970 a week or

\$50,440 annually is adopted, the position would be paid below the minimum salary requirement and therefore, would be considered non-exempt.

- 7. Q: Can I continue to be an exempt employee by opting out of this change?**
 - A. The exemption criteria are federal law and therefore, an employee cannot opt out of this change.
- 8. Q: Will changing from exempt to non-exempt impact an employee's leave accrual or retirement plan?**
A: No. The proposed changes to the FLSA will not change an employee's leave accrual or retirement plan.
- 9. Q: As a non-exempt employee, may I check emails from home or continue to work early or late?**
A: Non-exempt employees may continue to arrange with their manager to work from home occasionally, to check messages at night, or change their schedules; however, all time worked must be accounted for and recorded as "time worked." Overtime and alternative work schedules must be approved in advance by their direct supervisor.