



Change to the Fair Labor Standards Act (FLSA): How it affects you in your role as a supervisor / manager

Presented by the
Office of Human Resources





Agenda



01 | What is the Fair Labor Standards Act (FLSA)?

02 | What will change? What stays the same?

03 | How the change impacts your employees and you as a supervisor/manager:

- Payroll
- Benefits
- Paid Leave
- Scheduling & Work Hours

04 | Resources and Time for Q&A



What is FLSA?

The Fair Labor Standards Act of 1938 is the U.S. Department of Labor (DOL) federal wage and hour law. It's commonly referred to as FLSA.



FLSA protects employees against unfair pay practices and includes regulations over the workweek, minimum wage, overtime pay, and youth employment.

Everyone is covered under the law, but employees are classified as **exempt** or **nonexempt** based on the job they do.



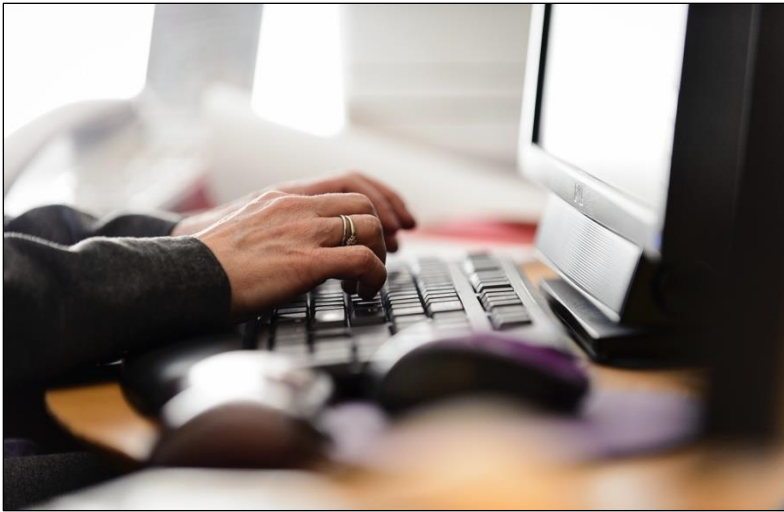
Definitions

FLSA Exempt:

An FLSA exempt job is not subject to the overtime protections outlined in the FLSA.

FLSA Nonexempt:

An FLSA nonexempt job is subject to the overtime protections outlined in the FLSA that ensure employees receive overtime pay.





Exempt vs. Nonexempt

Exempt	Nonexempt
Paid annually/salary	Paid hourly
Typically, no additional pay for working more than 40 hours in a workweek	Overtime pay or compensatory (comp) time for working more than 40 hours in a workweek



Exemption Status Criteria

1. Salaried: The employee must be paid on an annual salary basis;

and

2. Minimum Salary: The employee must be paid above the minimum salary threshold amount of \$1,128 per week or \$58,656 annually effective January 1, 2025;

And

3. Duty and Discretion: The employee must fall into one of these categories: executive, administrative, professional or computer professional.

*Regardless of salary, teachers, doctors, and lawyers are always exempt.



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What will change?

What stays the same?



Who is Affected?

If an employee's current job title is classified as **exempt** and their salary does not meet the new salary threshold amount, their position will be classified as **nonexempt**.



What Will Change? What Stays the Same?

Moving to nonexempt changes **how employees report time.**

It does **not** change the employee's:

- employee category
- vacation and sick leave earnings



What Will Change? What Stays the Same?

Moving to nonexempt changes **overtime eligibility**.

It does **not** change:

- the employee's job duties
- the employee's supervisor
- policy



FLSA Change Handouts

Exempt to Nonexempt “Summary of Changes” documents provide information on the change from exempt to nonexempt.

These can be found on the [Exempt to Nonexempt web page](#).

Academic Staff

Academic Staff Moving from Exempt to Nonexempt: Changes You Can Expect	
<p>The Fair Labor Standards Act (FLSA) is a federal law through the Department of Labor. The law determines which jobs are covered by the act (“nonexempt”) and which jobs are not covered (“exempt”). Every UW–Madison employee who is subject to the FLSA has an exempt or non-exempt status based on all job responsibilities performed for the university. This table provides information about changes that will occur when there is a change in your exemption status.</p>	
Payroll	
Pay periods	No Change 26 biweekly pay periods for all Academic Staff (nonexempt & exempt).
Overtime	Change Nonexempt employees receive time-and-one-half for all hours worked above 40 hours in a work week.
Direct deposit	No Change
General deductions	No Change
Differentials	Change Nonexempt Academic Staff holding a nonexempt job title will receive night differential, weekend differential, and holiday premium pay.
Tax deductions	No Change
Garnishments	No Change
Paid Leave	
Compensatory time	Change Nonexempt A-basis Academic Staff are eligible for compensatory time. Divisions have the option regarding how to use comp time.
Leave reporting	Change Nonexempt Academic Staff record leave in 15-minute increments. Exempt Academic Staff submit absences in half or whole day increments.

University Staff

University Staff Moving from Exempt to Nonexempt: Changes You Can Expect	
<p>The Fair Labor Standards Act (FLSA) is a federal law through the Department of Labor. The law determines which jobs are covered by the act (“nonexempt”) and which jobs are not covered (“exempt”). Every UW–Madison employee who is subject to the FLSA has an exempt or non-exempt status based on all job responsibilities performed for the university. This table provides information about changes that will occur when there is a change in your exemption status.</p>	
Payroll	
Pay periods	No Change 26 biweekly pay periods for all University Staff (nonexempt and exempt).
Overtime	Change Except for law enforcement officers, FLSA nonexempt employees must be paid at a premium rate or receive compensatory time credits at a rate of 1.5 hours per hour worked in excess of 40 hours in a work week.
Direct deposit	No Change
General deductions	No Change
Tax deductions	No Change
Garnishments	No Change
Paid Leave	



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How this change affects your employee's:

- **Payroll**
- **Benefits**



Payroll: Earnings Statements



Earnings statements should be reviewed by your employees each pay period, particularly if they made changes to:

- your benefits
- tax withholding
- general deductions, **or**
- if there has been a change to your appointment.



Timesheet Changes



Contact your local HR professional for questions about how to approve your employee's timesheet.

hr.wisc.edu/contact/



Benefits Enrollments

Will NOT change due to FLSA

- State Group Health
- State Group Life Insurance
- Income Continuation Insurance
- Supplemental Dental
- Preventative Dental (No Health)
- VSP
- Individual Family Life Insurance
- AD&D Life Insurance
- Accident Insurance
- UW Employee Inc. Life Insurance
- Flexible Spending Account
- Health Savings Account
- Wisconsin Retirement System





Wisconsin Retirement System (WRS)

The employee's employee category will not change. The minimum hours remain the same regardless of exemption status.

University Staff (General Category)

- Calendar Year (January 1 – December 31)
- 1 year of Creditable Service = minimum of 1,904 hours

FA/AS/LI (Teacher Category)

- Fiscal Year (July 1 – June 30)
- 1 year of Creditable Service = minimum of 1,320 hours
(FT, 100% FTE employees earn ~ 174 hours each month)

Creditable service is based on hours paid.



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How this change affects your employee's:

Paid Leave



Paid Leave: Sick / Personal / Vacation

	Academic Staff (exempt to nonexempt)	University Staff (exempt to nonexempt)
Leave Benefits Sick, personal holiday, legal holiday, and vacation	NO CHANGE	NO CHANGE
Leave accumulation/ allocation schedule	NO CHANGE (Fiscal Year)	NO CHANGE (Calendar Year)
Leave Reporting	Report leave time in 15-minute increments as it is taken.	Report leave time in 15-minute increments as it is taken.



Overtime and Compensatory (Comp) Time

An employee with FLSA nonexempt status can either earn comp time **or** be paid overtime in a week, but **not** both.



Overtime Pay

- An employee with FLSA nonexempt status can earn overtime by working more than 40 hours in a work week (Sunday through Saturday).
- Overtime pay is paid at time and a half.
- The employee must receive approval to work overtime **before** working it.
- Paid leave time does not count as hours worked to earn overtime.



Comp Time

- A nonexempt employee who has worked overtime may accumulate comp time instead of receiving a cash payment on their paycheck for overtime.
- Each hour worked over 40 hours would covert to 1.5 hours of comp time off. Partial hours would be prorated.

For example:

If the employee works 40.5 hours in a week and are earning comp time, they would be paid for 40 regular hours and accumulate 0.75 hours of comp time.



Comp Time (cont.)

- The employee can accumulate up to 80 hours of comp time. After that, it must be paid out as overtime pay as it occurs per policy.
- Divisions/units may have their own specific practices and procedures. **They determine and approve the accumulation and use comp time before it is earned.**
- While other leave time for Academic Staff is managed on a fiscal year basis, comp time is managed on a calendar year **for all employees.**
- Any comp time credits that are unused by April 30 (from the previous year) will be paid as cash in your May 1 paycheck.



Paid Leave & Overtime/Comp Time

Nonexempt employees **must be paid overtime or receive comp time for every hour worked over 40 hours in a workweek.**

- Working over 8 hours in a day but less than 40 hours in a workweek does not result in overtime or comp time.
- The employee must get approval **before** working overtime or receiving comp time.
- For overtime or comp time, hours worked does not include hours of paid leave (sick time, vacation, personal holidays, etc.).
- Divisions/units may have specific guidelines about working overtime or earning comp time. Check with your division contact.

Your employee will need to record all hours worked and leave taken in 15-minute increments.



Example: Full-Time Nonexempt Employee

Irene works 47 hours in a work week. She will receive:

- 40 hours of pay at her regular hourly rate
 - **AND** — 7 hours of overtime pay
 - **OR** — 10.5 hours of comp time earned (indicated by checking the comp time box on timesheet)

Timesheet		Additional Elements		Show all columns by default										
Select for Delete				Date	Status	Shift In	Break Out	Break In	Shift Out	Punch Total	Time / Absence Code	Quantity	Sched Hrs	Comp Time
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Sun	11/10								0.00	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Mon	11/11	<input type="checkbox"/>	7:00:00AM	12:00:00PM	12:30:00PM	3:30:00PM	8.00		0.00	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Tue	11/12	<input type="checkbox"/>	6:00:00AM	12:00:00PM	12:30:00PM	6:00:00PM	11.50		0.00	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Wed	11/13	<input type="checkbox"/>	7:00:00AM	12:00:00PM	12:30:00PM	3:30:00PM	8.00		0.00	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Thu	11/14	<input type="checkbox"/>	6:00:00AM	12:00:00PM	12:30:00PM	6:00:00PM	11.50		0.00	<input checked="" type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Fri	11/15	<input type="checkbox"/>	7:00:00AM	12:00:00PM	12:30:00PM	3:30:00PM	8.00		0.00	<input type="checkbox"/>



Example: Part-Time Nonexempt Employee

Santiago is scheduled to work at 50% FTE (20 hours per week). If he works 25 hours in a work week, he will receive:

- 20 hours of pay at regular hourly rate
- **AND** — 5 hours of regular pay at regular hourly rate

All hours worked under 40 in a work week are paid at the regular hourly rate (“straight time”) regardless of assigned FTE.



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How this change affects your employee's:

Scheduling & Working Hours



What Counts as “Work”?

Whenever an employee is performing services for the benefit of the employer, it counts as “work.”

- The way your employee schedules and records their work changes when FLSA exemption status changes from exempt to nonexempt.



Counting Work: Exempt to Nonexempt

Exempt Employees	Nonexempt Employees
<p>May be in work status beyond their regularly scheduled hours without accumulating overtime or comp time.</p>	<p>Hours an employee works beyond their regular scheduled hours may still be considered hours worked and need to be paid.</p>
<p>May often work over 40 hours per workweek and may be required to do work outside of standard office hours.</p>	<p>Must be paid for all hours worked. Employees cannot work “off the clock.”</p>
<p>Divisions, work units, and supervisors determine expectations and guidelines for these employees.</p>	<p>Once a supervisor allows an employee to work, knows the employee is working, or becomes aware that the employee has worked, the employee must be paid even if the work was not preapproved and even if it was performed at home.</p>



Working beyond Scheduled Work Hours

- In most cases, a nonexempt employee should not work, and supervisors should not assign work, outside of the employee's scheduled work hours.
- Some exceptions to working beyond the employee's scheduled work hours may include:
 - The employee cannot leave their shift due to an emergency within your division/unit.
 - The employee is waiting for coverage to arrive to relieve them.



What Is “De Minimus” Work?

If a nonexempt employee works outside of scheduled work hours, they may be entitled to overtime **or** comp time if:

- they are working over 40 hours in a workweek
- **and**
- they are doing work that is more than “**de minimus.**”



De Minimus Work

De minimus work is insubstantial or insignificant periods of time beyond the scheduled working hours.

- De minimus work should not occur on a regular basis.
- Time worked must consist of “uncertain and indefinite periods of time involved of a few seconds or minutes duration.”
- There must be practical administrative difficulties in precisely recording the time for payroll purposes.
- Any part of the employee’s regular work schedule is not considered de minimus and therefore would be paid.
- Employers cannot decide at random that parts of your job are de minimus and would not be paid.



Meal and Break Periods

- Paid time includes meals in which the employee is **not completely relieved of duties** or meals that are less than 30 minutes (e.g., working while eating lunch at desk) and breaks of less than 15 minutes.
- Unpaid time includes meal periods of 30+ minutes in which the employee is **completely relieved of duties** (i.e., can leave the work site).



Meals/Break Periods: University & Academic Staff

Nonexempt University Staff:

- Working more than 4 hours but less than 6 consecutive hours in a single shift are expected to take a 15-minute paid break each day.
- Working more than 6 consecutive hours in a single shift must take a minimum of a 30-minute unpaid lunch during their shift, in addition to two 15-minute paid breaks each day.
- Lunches and breaks may not be combined to create a longer break, or to modify the employee's start or end shift times.
- Modification of these lunch and break provisions may only occur through a written work unit policy or through written consent from their supervisor.

Nonexempt Academic Staff:

- It is also recommended that nonexempt Academic Staff take a similar break, but campus policy does not require this.



Talk with Employees you Supervise

Divisions/units may establish guidelines regarding work schedules, changes to those schedules, overtime/comp time usage, and/or overtime/comp time approval.

- Nonexempt employees may need to use leave time when arriving late or leaving early (15 minutes or more) as determined by your division/unit.
- If the employee works certain scheduled hours, they must obtain approval from their supervisor to make changes to these hours according to the procedures of your division/unit.



Failing to Follow Procedures: Employees

If your employee “fails to follow” your division’s/unit’s procedures for scheduling and hours of work, the employee may be subject to disciplinary-consequences. Examples of “fails to follow” may include:

- Working **less than** scheduled daily hours without use of leave or without receiving prior approval
- Working **more than** scheduled daily hours without approval
- Working **more than** 40 hours in a week (overtime) without prior approval
- Deliberately failing to accurately report hours worked or leave time used on timesheet



Preparing for Change

To prepare for the change from exempt to nonexempt, talk to your employee(s) about:

- Their standard hours of work
- The procedure for reporting their absence or late arrival
- The process for approving their standard hours of work
- The process for accumulating and using overtime or comp time if they work over 40 hours in a work week
- If they're able to make changes to their standard work hours and the process to request these changes
- Their break and lunch schedule



Failing to Follow Procedures: Supervisors

Supervisors are expected to follow all University policies and the FLSA regulations. Supervisors may be subject to disciplinary consequences for:

- Allowing or encouraging employees to inaccurately report hours worked
- Failing to comply with division/unit time and leave reporting procedures
- Allowing or encouraging employees to volunteer to do their own job to try to avoid paying overtime or comp time



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Resources



General Resources

1. The employee's supervisor or local Human Resources contact
2. UW–Madison FLSA Website

All session materials will be posted on: hr.wisc.edu/flsa/



Additional Helpful Resources

[Overtime Policy](#)

Leave Benefits Policies

- [Sick Leave](#) [Leave reporting: Section VII (1-2)]
- [Vacation](#) [Leave reporting: Section VIII (2-3)]
- [Personal and Legal Holidays](#)

Standard hours and break time information

- [Standard Office Hours - UW-Madison Policy Library \(wisc.edu\)](#)

Volunteering vs. Working

- [Same Type of Services Defined](#)
- Section IV.8. of the [Overtime Policy](#)



Thank you!

FLSA Website

hr.wisc.edu/flsa/