HR Updates & Understanding Recent Changes in the Fair Labor Standards Act

Alex Teodosio
Human Resources
Congratulations!

North Coast

Honoring 99 Great Workplaces For Top Talent In Northeast Ohio
The CarrollSTAR University-Wide Employee Recognition Program
September 1 (Jardine)
9:00 am – 10:30 am

University Community Morning Social
September 2 (Alumni Lounge)
8:30 am – 9:00 am

The New University Performance Evaluation Process
September 13 (LSC)
1:00 pm – 2:30 pm

Employees Guides to Utilizing the EAP
September 14 (LSC)
10:00 am – 12:00 pm

Thinking Visually
September 22 (LSC)
9:00 am – 10:30 am

Understanding Positive Corrective Action
September 27 (LSC)
9:00 am – 11:00 am

The New University Performance Evaluation Process
September 29 (Jardine)
10:00 am – 11:30 am
HR Updates

- NorthCoast99
- Staff Employment Process
- HR Policy Review Committee
- Performance Management
- FLSA Regulatory Changes
Performance Management
New Electronic Workflow

**Probationary Evaluation**
- Supervisor
- Employee Review
- HR

**Annual Evaluation**
- Employee
- Supervisor
- Next Level Review
- Employee Review
- Employee Acknowledgement
- HR

**Evaluation Details**
- **Probationary Evaluation**
  kicks off 15 days before New Hire’s 90 Day Anniversary

- **Exempt Annual Evaluation**
  kicks off on August 15. Due October 15

- **Non-Exempt Evaluation**
  Starting on August 15, kicks off on employee’s anniversary date. Due within 2 weeks.
University Values

Outstanding **Teamwork & Collaboration**

Enhancing the **Student Experience**

Striving for **Excellence**

Promoting an **Inclusive Community**

**Leadership** Excellence

Demonstrating **Service in Solidarity**

Innovative **Solutions & Creativity**
Understanding Recent Changes in the Fair Labor Standards Act

Alex Teodosio
Human Resources
Learning Objectives

• Understand the intent of the FLSA and the recent DOL regulatory changes

• Discuss distinctions in categories of exempt and non-exempt workers

• Review application of the recent regulatory changes

• Explain timeline and communication plan for adoption of regulatory changes
Intent of the FLSA

“FLSA will give specific minimum protections to individual workers and ensure that each employee covered by the Act would receive ‘a fair day’s pay for a fair day’s work.’”

- President Roosevelt, 1937
Intent of the FLSA

FLSA was enacted on June 25, 1938 to create more jobs by:

• Requiring payment for all hours worked

• Discouraging employers from requiring employees to work more than 40 hours in a week by requiring the payment of overtime pay

• Establishing a minimum wage to protect workers
Who is Covered by the FLSA?

• Everyone who is a paid employee at JCU is covered

• Unpaid volunteers are **not** covered

• Certain employees are **exempt** from overtime provisions based on the work they perform
Exempt vs. Non-Exempt

Exempt (Salaried) Employees:
- Are regularly paid a pre-determined amount
- Meet FLSA “salary level” test
- Are engaged in supervisory, administrative or executive job duties
- Are not entitled to Overtime

Non-Exempt (Hourly) Employees:
- Do not meet one or more of the FLSA exemption tests
- Are not engaged in supervisory, administrative or executive job duties
- Do not meet “salary level” test
- Are “Covered” by wage and hour laws (min. wage, hours worked, overtime)
- Are Eligible for Overtime
Exemptions

• Three tests for Exemption
  – Salary Level
  – Salary Basis
  – Job Duties

• Human Resources determines, with information from departments and review of Job Descriptions, an exempt or non-exempt status for each position.
Exempt vs. Non-Exempt
(.until December 1, 2016)

**Step 1: Salary Basis Test**
Is the employee paid at least $455 per week ($23,660 per annum)*, not subject to reduction due to variations in quantity/quality of work performed?

*The computer professional exemption has a salary basis test of $455 per week or $27.63 per hour. The outside sales exemption is not subject to the salary basis test.

**Step 2: Exemption Applicability**
Does the employee perform any of the following types of jobs?
- Executive — management is the employee’s primary duty
- Administrative — employee performing nonmanual office work
- Professional/creative — employee whose work requires highly advanced knowledge/education; creative and artistic professional
- Computer professional — employee involved in design or application of computers and related systems
- Outside sales — employee making sales or taking orders which influence sales outside of the employer’s premises

**Step 3: Job Analysis**
A thorough analysis of the job duties must be performed to determine exempt status. An exempt position must pass both the salary basis and the duties tests.
Regulatory Changes

• May 18, 2016 - DOL announces changes to Salary Level test
  – Impacts 4.2 million U.S. workers
  – Minimum salary increased
    • $455 to $913 per work week
      – JCU’s work week runs from Sunday to Saturday
      – Work week is 7 consecutive 24-hour periods (168 hours)
      – each work week stands by itself
    • $23,660 to $47,476 (full-time annual)

• Thresholds reset every three years
• About 50 staff will change from exempt to non-exempt
• December 1, 2016 implementation deadline
NEW RULE

$47,476

OVERTIME PAY

DEPT. OF LABOR ANNOUNCES NEW OT PAY RULES
# White Collar Exemptions
*(beginning Dec. 2016)*

<table>
<thead>
<tr>
<th>Salary Level Test</th>
<th>Executive</th>
<th>Administrative</th>
<th>Professional</th>
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<tbody>
<tr>
<td></td>
<td>$913 per week ($47,476 per year for a full-year worker)</td>
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**Duties Test**

<table>
<thead>
<tr>
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<th>Administrative</th>
<th>Professional</th>
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<tbody>
<tr>
<td>The employee’s “primary duty” must be managing the enterprise, or managing in a department or subdivision of the enterprise (and managing 2 fulltime employees as well).</td>
<td>The employee’s “primary duty” must include the exercise of discretion and independent judgment with respect to matters of significance.</td>
<td>The employee’s “primary duty” must be to primarily perform work that either requires advanced knowledge in a field of science or learning or that requires invention, imagination, originality or talent in a recognized field of artistic or creative endeavor.</td>
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*Does not* apply to doctors, lawyers or teachers.
Other Exemption Examples
(Not Impacted)

- Faculty / Teachers / Instructors / Coaches
- Outside Sales
- Doctors engaged in medical work
- Lawyers engaged in law work
Common Errors to Avoid

- Improperly applying an exemption
- Non-exempt employees failing to accurately record hours worked
- Not properly accounting for hours for training, travel etc. for non-exempt staff
Flexible Work Week
## Timeline & Communication

<table>
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<tr>
<th>Time Period</th>
<th>Activity</th>
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<tbody>
<tr>
<td>February – July</td>
<td>Job description updates</td>
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<tr>
<td>May 3, 2016</td>
<td>Hours-worked survey administered</td>
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<tr>
<td>May 18, 2016</td>
<td>DOL official announcement</td>
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<tr>
<td>June 1, 2016</td>
<td>FLSA notice to employees <em>(Also posted on HR website)</em></td>
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<td>June - August</td>
<td>HR meetings with individual VPs</td>
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<td>August 17</td>
<td>Discuss DOL changes with Staff Council</td>
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<td>September 16</td>
<td>Supervisor workshop</td>
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<tr>
<td>September - November</td>
<td>Individual employee meetings and Notice to employees</td>
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<tr>
<td>December 1, 2016</td>
<td>Regulatory change start date</td>
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Frequently Asked Questions

Q. When do the new FLSA rules take effect?
   A. December 1, 2016.

Q. Do the new FLSA rules affect faculty?
   A. The new rules do not affect any instructional faculty or other instructors because the FLSA exempts all faculty and instructors from salary requirements. This includes all tenured, tenure track, visiting, and part-time faculty, instructors, head coaches and assistant coaches.

Q. If I am an impacted employee, will I automatically receive a pay increase?
   A. No. Neither your rate of pay nor your benefits will be impacted automatically.
Frequently Asked Questions

Q. I have been told I will be changing from exempt to non-exempt. What does that mean for me?
A. As a non-exempt employee, you must receive compensation for all hours worked, so you will need to report your actual hours worked. If you work extra hours, but do not exceed 40 hours per week, you will be paid at your normal rate for those hours. If you work more than 40 hours in a week, you will receive overtime pay at 1 ½ times your normal rate for the additional hours. As a non-exempt employee, you will also be paid on a Bi-Weekly basis.

Q. Is my supervisor able to limit my work outside of my normal working hours?
A. Yes. You must first receive approval from your supervisor to work any hours that are above your regular scheduled hours, especially if you will plan to work more than 40 hours in a week. If your supervisor expects you to be available or to regularly respond to e-mails, phone calls, or other communications outside of your scheduled work hours, discuss with your supervisor how you will be compensated for that time.
Q. Can my supervisor limit the number of overtime hours I work?
A. Yes, your supervisor must give advance approval before you work any extra hours beyond your usual work schedule.

Q. Can my supervisor adjust my schedule within a workweek so that my hours do not exceed 37.5 hours in a workweek?
A. Yes, your supervisor may adjust your schedule within a workweek to maintain overall hours below 37.5 hours in a workweek. For example, if you work 8:30-7:00 on Monday, your supervisor may adjust your schedule to work 8:30-3:00, two hours less, on another day of the same workweek.
Frequently Asked Questions

Q. If I am converted to a non-exempt employee, will I need to keep track of the daily hours I work?
A. Yes. It is important to accurately record hours worked each day so you are paid appropriately.

Q. Where can I get more information?
A. You may contact your Human Resources representative with any additional questions. Complete information on the new rule is available from the website of the Department of Labor’s Wage and Hour Division.
Thank you for all you do to make JCU a great place to work.