**The Fair Labor Standards Act (FLSA)**

The Fair Labor Standards Act (FLSA) is a federal law which establishes minimum wage, overtime pay eligibility, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in federal, state, and local governments. For a full compliance overview of the federal law, refer to the DOL Wage and Hour Division’s FLSA assistance page.

The FLSA does not regulate:
- vacation, holiday, severance, or sick pay
- meal or rest periods, holidays off, or vacations
- premium pay for weekend or holiday work
- pay raises or fringe benefits
- discharge, termination, or final payment procedures

**Overtime Pay Eligibility**

The piece of the Act that employees and managers are usually most interested in is overtime pay eligibility. Employees whose jobs are governed by the FLSA are either "exempt" or "nonexempt" from the overtime rules.

**Non-exempt:** Employees who, based on the duties performed and the manner of compensation, are required to account for time worked and sick leave, vacation, and other leave on an hourly and fractional hourly basis. The FLSA requires that these employees be paid overtime at the premium (time-and-one-half) for actual time worked in excess of 40 hours per week.

**Exempt:** Employees who, based on the duties performed and the manner of compensation, are exempt from the FLSA minimum wage and overtime provisions. Exempt employees are paid an established monthly or annual salary and are expected to fulfill the duties of their positions regardless of the hours worked. They do not receive overtime pay for time working more than 40 hours in a work week.

**The Exemption Test**

One of the responsibilities of the Human Resources Compensation Department is the interpretation and enforcement of exemption at the University. The Compensation Department reviews all staff position postings to determine whether a position is exempt or non-exempt from overtime regulations. It is the responsibility of the VPHR to establish and administer policies and procedures that comply with the FLSA.

In addition to a minimum salary threshold, there are five primary exemption tests utilized to determine if a position is exempt from the overtime payment requirements:
- Executive Test
- Administrative Test
- Professional Test
- Outside Sales Test
- Computer Test

The Act designates all work as nonexempt (overtime required) until the employer completes an exemption test to document the reasons that overtime is not required.