

FLSA Frequently Asked Questions

FLSA classifications of exempt and non-exempt refers to a legal designation of the employee's job, and in no way refers to the *value* placed on an employee at NSU. All employees, whether staff, faculty or student are critical to the operations of the University.

What impact do these changes have on employees who currently work in exempt positions that will become non-exempt?

In order to comply with the law, NSU will convert positions for anyone in a job currently designated as exempt whose salary is below the \$47,476, minimum threshold, to the designation as non-exempt, effective December 1, 2016. There will be some exceptions under the teacher and academic exemptions.

How will this impact non-exempt employees who work more than 40 hour in a workweek?

The University's policy will be to give compensatory time off in lieu of payment, when overtime is worked. This should be done in every possible situation. Compensatory time will normally be banked at a time and one-half rate. The University recognizes that there will be occasional legitimate exception where overtime must be paid, but such pay is beyond anticipated budgetary expenses and at the discretion of the management. Your immediate supervisor must approve all overtime worked in advance. All hours worked must be accurately documented and maintained in accordance with federal and state regulations. Exempt employees are not entitled to overtime payments for those hours worked over 40 in a workweek.

How much comp time can I earn?

According to FLSA, the employee generally may not accrue more than 240 hours. NSU recommends a balance of no more than 30 hours of banked comp time. Therefore, an employee would need to take time off to reduce his/her comp time balance before working additional overtime.

When can I take my comp time?

You can schedule comp time like vacation. According to NSU policy, comp time is to be used before vacation. The University will grant the time off request at the convenience of the employee, but reserves the right to deny leave when and if a hardship or disruption for the department may result. The supervisor can also assign the use of comp time.

Don't you have to pay me overtime?

According to the FLSA, public universities or colleges that qualify as a "public agency" may compensate overtime-eligible employees through the use of compensatory time off or comp time in lieu of cash payment. However, some departments may choose to make payment for the overtime, with the understanding that this will be charged to their organizational budget. Otherwise, all overtime will be compensated through a comp time system. No additional overtime budgets are available. Again, all overtime worked must be pre-approved.

Do I have to take my comp time? Can't I just let it accrue like vacation?

Comp time nor vacation time are intended to be saved as a way to bank income. They are both financial liabilities to NSU and therefore should be taken on a regular and consistent basis. Your supervisor should be encouraging you to schedule and take earned time to keep balances within reason.

Are there additional concerns regarding implementation of the new law?

The intent of the law is a good one, ensuring a fair day's pay for a day worked. However, there are administrative challenges to complying with the law. There are challenges unique to higher education that make determining how to comply more difficult. We will continue to review the process to ensure compliance.

Are faculty excluded from the changes?

Yes. Under the FLSA, employees are not subject to the salary minimum if their primary duty is teaching, engaged in this activity at an educational establishment.

As a non-exempt employee, can I still work early or late? Can I check emails from home?

Non-exempt employees must make arrangements and obtain approval from the supervisor to work from home, to check messages at night or to change their daily schedules to different hours. However, all time worked must be accounted for and recorded as time worked. The employee's immediate supervisor must approve all overtime and any alternate work arrangements in advance. This should be reflected appropriately on the time card.

I routinely travel on business. Do I need to track ALL my travel time?

Not all time "away" is considered working time. Compensation for travel is very complex and must be calculated according to regulations in the FLSA. Some of the most common travel questions can be answered through the Department of Labor's fact sheet available at the DOL website. Employees, supervisor and timekeepers are encouraged to work with the offices of Human Resources and Payroll with questions.

Can I still adjunct as a non-exempt employee?

Non-exempt employees must be compensated at one and one-half time for all work in excess of the regularly scheduled 40-hour week, based upon their hourly rate, regardless of whether it is performed for the department the employee is assigned to or another University department, such as teaching a course. According to RUSO, employers of adjunct faculty are to use a method of crediting hours of service for those employees that is reasonable in the circumstances and consistent with the employer's responsibility. The final regulations expressly allow crediting an adjunct faculty member with 2.25 hours of service per week for each hour of teaching or classroom time, as a reasonable method for this purpose. If it is within your normally scheduled workweek, approval from your supervisor must be obtained. Please use the "Authorization for Additional Employment" form located on the HR website.

Is there any additional information that NSU employees need to know about the changes?

Employees whose positions are transitioning to a non-exempt status and work overtime, in the performance of their duties, will rightfully receive compensatory time, at a rate of one and one-half times, for every overtime hour worked. While keeping accurate records of work time may be perceived as a nuisance, in fact, this is clearly an advantage for the employee, and is compliant with and in the spirit of the intent of the law.

What are some other considerations for employees changing from salaried to hourly?

Consider personal finances, credit obligations, and due dates when transitioning from a monthly pay period to a bi-weekly pay period.

Employees reclassified as non-exempt will no longer be required to participate in Oklahoma Teachers' Retirement System (OTRS). This requirement will be optional.