FLSA Change Overview 2016

Ed Pope – Human Resources
Fair Labor Standards Act

- Federal law that establishes minimum wage, overtime pay, recordkeeping & youth employment standards
  - Establishes criteria for **Exempt** vs **Non-exempt** employees using salary basis, job duties and responsibilities
Exemptions

• Employees are non-exempt unless they meet one of these exemptions:
  – Executive Exemption
  – Administrative Exemption
  – Professional (Learned) Exemption
    • Teachers, lawyers, doctors exempt from salary requirement
Executive Exemption

• Paid salary of at least $455/week ($23,660/Yr.);
• Regularly supervise two or more F/T employees;
• Management of enterprise or department/division of enterprise as the primary duty; and
• Genuine input into the job status of other employees (such as hiring, firing, promotions, or assignments).
Administrative Exemption

• Paid salary of at least $455/week ($23,660/Yr.);
• Office or non-manual work directly related to management or general business operations of the employer or the employer's customers; and
• Primary duty includes exercise of independent judgment and discretion about matters of significance.
Non-exempt Employees

• Must record all hours worked on timesheet
  – Work hours are not recordable if the time is not actually worked
  – Hours worked are to be recorded when worked, not saved for reporting in future pay periods
  – Hours worked in excess of 40 hours/week are eligible for Overtime or Compensatory Time
  – Hours worked between 37.5 and 40 per week are not eligible for Overtime or Compensatory Time
**Overtime**

- Applies **only** to Non-exempt employees
- All work hours over 40/week (*12:01 am Sun – 12:00 midnight Sat*)
- Paid at straight time + ½
- Should be the exception, not the rule (*occasional workload/crisis demands*)
- **Must** be approved by supervisor **before** worked
- Working unauthorized overtime can be cause for discipline
- Must be recorded on timesheet
Compensatory Time

• Applies only to Non-exempt employees
• Time Off as an Alternative to Paid Overtime
• Accrued at straight time + ½
• Accrual cannot exceed 240 hours of Compensatory Time (excess paid out automatically) – Exceptions allowed up to 480 hrs for certain jobs.
• Must be approved by supervisor before worked
• “Compensatory Overtime Record” form must be used to record Compensatory Time worked and taken
• Balance paid out upon termination of employment
Compensatory Time Cont’d

• As a state agency, we can use compensatory time in lieu of overtime pay for permanent, non-exempt employees who work over 40 hours in a workweek.
• Usage currently tracked by departments.
• Will transition to tracking in Banner for non-exempts.
• CT will accrue as a separate leave option for non-exempts.
Compensatory Time (Exempt Employees)

- “Casual Time” worked at employee’s discretion over 40 to accomplish their work not eligible for Compensatory Time
- May be permitted on occasion when required by supervisor to work over 40
- Must be approved in advance
- Accrues at rate of 1 hour for every hour worked over 40/week
- “Compensatory Overtime Record” form used to record Compensatory Time worked and taken
- Accrued Compensatory Time NOT paid out as Overtime
- Accrued Compensatory Time NOT paid out at termination of employment
Pending FLSA Changes

- Increase salary basis from $455 to $913 per week ($23,660 to $47,476 annually)
- Every 3 years automatically increase salary basis to match 40% of US salaries (lowest region)
- No changes to Duties Test
Pending FLSA Changes Cont’d

EXEMPTIONS for Higher Ed:

– Teachers (already exempted from salary basis in current rules)
– Athletic Coaches and Assistant Coaches whose primary duties must be teaching/instruction of athletes in how to perform their sport.
– Academic Administrative Personnel who interact with students outside the classroom i.e. department heads, academic counselors and advisors, intervention specialists, and others with similar duties are exempted from overtime if they are paid at least as much as the entrance salary for teachers at their institution.
Timing

• Implementation date is December 1, 2016
• The College is considering transitioning in November due to holiday crunch
CofC Impact

- Approximately **230+** Exempt Employees will become Non-exempt due to salary
- Will have to do time-sheets/record all hours worked
  - Eligible for OT
  - Manager will have to manage time more closely to prevent/minimize OT (*Travel!*)
  - Employees must not be expected to respond after hours (*unless it’s required*) as this could be work time (*checking emails, returning calls, researching, etc.*)
CofC Impact Cont’d

– Risk of FLSA violations if hours are not properly recorded
– IF OT not managed, considerable Financial Impact
– Staffing and Scheduling Concerns
– Morale
In Preparation for Change, Supervisors Should…

• Review potential OT implications for your department.
• Consider how you will handle work schedules and staffing of events to avoid OT.
• Ensure employees know this will happen and why it’s important.
• Consider like-classified employees who do same job with salary over $47,476; they may be impacted too for consistency.
In Preparation for Change, Supervisors Should…

• Ensure impacted employees understand and follow timekeeping requirements as non-exempt employees.
• Read *Hours of Work Policy* to understand and adhere to OT regulations.
• Consult with HR.
Questions?