

COLLEGE *of*  
CHARLESTON

## 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 +  $\frac{1}{2}$
- 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 +  $\frac{1}{2}$
- 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?