

MEMORANDUM

To: President, Provost, Vice Presidents, Vice Provosts, Deans,
Directors, and Department Heads

From: Gary Leitnaker, Assistant Vice President
Division of Human Resources

Date: June 25, 2004

Subject: Fair Labor Standards Act Changes
Effective August 23, 2004

The Federal Government has revamped the Fair Labor Standards Act (FLSA) for the first time since its enactment in 1938. As you know, the FLSA sets minimum wage and overtime rules for all employees with special provisions for educational institutions regarding the use of compensatory time. These new standards provide us a fresh opportunity to re-examine position duties and re-define responsibilities to meet updated overtime exemption tests.

One of the most significant changes to the Act directly affects all employees at Kansas State University with salaries less than \$455 per week. New salary requirements for exempt status (not receiving overtime or recording hours worked) have been increased to \$455 per week, or \$23,660 annually. This higher amount will affect many of our graduate research assistants, research assistants, and others whose pay is less than the \$455 per week. The amounts are not pro-rated for part-time work or employment for less than a full year. Teaching faculty, including GTAs, and those whose salaries exceed \$100,000 are automatically exempt under special provisions for teachers and those who are highly compensated, respectively. Consequently, we will identify all exempt positions that fall below the \$455 per week salary threshold and change them to non-exempt, much as we did for the Graduate Assistants last year.

In addition to identifying those whose salary is below \$455 a week, it is vital that we take the time to review all other existing exempt positions over the salary threshold that do not qualify for the automatic exemptions as noted above. The review involves applying tests developed by the Department of Labor (DOL) to the tasks being performed. Examples of other positions that will be reviewed include computer positions and administrative positions. Employees performing tasks involving design, development and programming will remain exempt whereas those involved in standard support, maintenance, or network administration are likely to become non-exempt. Many positions that are currently administrative exempt will also be reviewed to determine whether the duties and level of decision-making are still in line with requirements of the DOL tests. As these positions are identified, we will request additional information from departments if we suspect the FLSA status should change. Departments and employees will be notified prior to our making any modifications for exempt status. The exception is for those falling below the salary threshold that will be automatically converted to nonexempt as indicated previously.

President, Provost, Vice Presidents, Vice Provosts, Deans, Directors, and Department Heads
June 25, 2004
Page two

We do not foresee changes to positions currently identified as non-exempt.

A related matter is determining the exempt status at the beginning of the unclassified recruitment process. Since April 2002, the Division of Human Resources, Classification Services, has been making determinations on unclassified professional positions regarding exempt status. A new position description, PER-23, was developed for this purpose and is available through the Human Resources website. As you begin recruiting for all unclassified professional positions, please also send the position description to our office for FLSA review. This will not delay your recruitment.

The effective date for compliance with the revised rules is August 23, 2004. Our goal is to have all employees and departments affected by changes notified prior to this date.

Please contact Stephanie Harvey Vruwink, Classification Services, 532-1868, if you have questions about this or the Fair Labor Standards Act.

c: Personnel Specialists