

## **FAQ: Fair Labor Standards Act and postdoctoral researchers at K-State**

The Fair Labor Standards Act, or FLSA, mandates that employers are required to provide overtime pay at time and a half for work more than 40 hours per week to some groups of employees who earn less than \$47,476 a year starting December 1, 2016. Postdoctoral researchers are one of the groups affected by this change. We have made salary and procedural adjustments as necessary, but principal investigators may have questions about how to factor the new rule into their budgets and what adjustments funding agencies may offer.

### **1. What guidance have funding agencies issued on the FLSA ruling as it applies to postdocs?**

The National Science Foundation has issued [FAQs](#), and National Institutes of Health has issued [projected fiscal year 2017 stipend levels](#). Both allow PIs to increase the salaries of exempt employees to meet the new FLSA salary threshold for exempt status. Neither agency plans to increase the budgets of existing projects to offset these costs. Thus, salary increases will only be possible by redirecting funds from another category.

### **2. Can I rebudget my grant funds as a result of this ruling?**

Yes. Work with your project accountant to complete any necessary paperwork. Typically, transfers within a category (i.e., salaries) require approval of the PI only and no paperwork. Transfers from one category to another (say, supplies to salary) require approval of the PI if the total moved is no more than 10% of either category's original budget. Transfers exceeding this amount must be coordinated with PreAward Services.

### **3. What if there's not enough money left in my budget to allow for an increase in postdoc salaries?**

Federal funding agencies will not implement a blanket increase to affected project budgets to cover these costs. Therefore, you have three options:

- (1) Supplement salaries with funds from another source. NSF has indicated that this will not violate the prohibition on voluntary cost share that is normally in effect, but caution is warranted because expended effort can't exceed 100%.
- (2) Contact your program officer to plead a hardship for supplemental funds due to insufficient funds available in current budgets to reprogram for postdoc salary increases. NSF and NIH will consider such requests "subject to the availability of funds," which means that the chance of obtaining additional funds is not good. PIs who are considering hardship requests should remember that federal agencies are able to see how much has been spent and what funds remain for every project.
- (3) Leave the postdoc's salary as it is and convert the position from exempt to non-exempt. In this case, the postdoc will need to track hours and must be compensated for any work beyond 40 hours per week. In this case, NSF and

other funding agencies will allow you to rebudget and use project funds to pay for overtime (see question 2).

**4. How are other institutions responding?**

A Council on Governmental Relations survey in August collected information from 109 research institutions. At that time, 69 institutions had already made a decision: 74 percent decided to implement an institution-wide policy to increase postdoc salaries to the new threshold, whereas 26 percent indicated they would not create such a policy and would allow for supervisors to determine if an increase in salary to the FLSA minimum or an option for time reporting/paid overtime was appropriate for their case. Kansas State has adopted the former option with a few exceptions. [Read the survey results.](#)

**5. How should I adjust future budgets?**

K-State has implemented an institution-wide policy. Minimum salaries for postdocs in future proposals must be \$47,476 per year, or higher.