

## Introduction

On September 24, 2019, the Department of Labor (DOL) issued a new final rule that raises the minimum salary threshold for exemption from \$23,660 per year to \$35,568 per year. The ruling is effective as of January 1, 2020.

In 2016, Kansas State University made a decision to adopt the salary threshold of \$47,476 per year for exemption which means that the university is in compliance with the updated ruling that went into effect on January 1. President's Cabinet recommended the adoption of the new final rule, lowering K-State's minimum salary threshold from \$47,476/yr to \$35,568/yr. The adjusted threshold will go into effect at K-State on June 14, 2020 (the start of Fiscal Year 2021) for both current employees and new hires.

## FLSA Basics

All positions are assumed to be non-exempt unless they meet **ALL** of the following criteria:

- Base salary is at least \$35,568 (as of June 14, 2020),
- Position is paid on a salary basis (not hourly), and
- Duties must meet the DOL guidelines for exemption.

## Common FLSA Myths & Misconceptions

**MYTH:** FLSA status is determined based on job title.

**FACT:** There are many factors that contribute to an FLSA status including salary threshold, how the position is paid, and duties test.



**MYTH:** All unclassified employees are exempt and all University Support Staff (USS) employees are non-exempt.

**FACT:** FLSA status has nothing to do with being unclassified or USS.

**MYTH:** Employees can volunteer additional work hours and decline pay protection under FLSA.

**FACT:** Employees must be paid for all hours worked. Employers are liable for payment of time worked if they knew (or should have known) that an employee was working.

**MYTH:** If a job regularly requires working variable hours on evenings and weekends, it is likely exempt.

**FACT:** There are many factors that contribute to FLSA status and when the time is worked is not a consideration.

**MYTH:** If the overtime is not approved, it does not need to be paid.

**FACT:** Any time worked does need to be paid. If the overtime was not approved, that may be a disciplinary issue and it may be helpful to contact Employees Relations & Engagement.

Kansas State University must follow all aspects of FLSA. Some specific compliance priorities to highlight include:

- **All hours worked by non-exempt employees must be recorded and compensated.** No off-record arrangements should be made. Hours worked must be recorded in official system of record.

Example: If a supervisor observes an employee working before work, during lunch or after hours, the supervisor has a responsibility to ensure all hours are recorded. Supervisors should not sign or approve an employee's timesheets without careful review and confirmation.

- It is helpful and beneficial to the institution to ensure supervisors are trained. An on-demand online training is available on the Human Capital Services website.

Claims of abuse are often highlighted during times when employees are disgruntled, overworked, tired, facing disciplinary action, etc. To avoid overtime liability, it is important for supervisors to:

- Clearly communicate and set work schedules
- Utilize flexible work arrangements to avoid overtime (flextime)
- Send home non-exempt employees after 40 hours of work has been reached in a workweek
- Carefully review timesheets
- Take disciplinary action when unauthorized work occurs outside regular schedule

## Human Capital Services Resources

Human Capital Services is available to assist employees and supervisors when there are FLSA questions. It is imperative to contact Employee Relations and Engagement when:

- An employee works overtime without authorization.
- A supervisor is making special arrangements with employees and not recording all hours worked in official time keeping systems.
- Assistance is needed when balancing demands, budget, and overtime rules.