Fair Labor Standards Act (FLSA)

REVISED REGULATIONS
Injunction Postponed DOL Overtime Rule

The Department of Labor’s (DOL) final rule updating overtime regulations was scheduled to go into effect on December 1, 2016.

On Tuesday, November 22, 2016, a U.S. District Court judge from Texas issued an injunction postponing the effective date of the U.S. DOL’s overtime rule. The injunction was in response to a legal challenge brought by a coalition of more than 50 business groups and 21 State Attorney Generals.

The University System of Maryland (USM) has received legal advice from the Maryland Attorney General’s Office that institutions do not move forward with any changes as a result of this rule. At this time, no salary increases will be implemented. Towson University will continue to monitor the situation regarding the status of the revised overtime rule.

We regret the necessity of this action and will update you when we have more information. Please do not hesitate to contact the Office of Human Resources (Jennifer Stano and/or Kristi Yowell) with any questions.
### Timeline

<table>
<thead>
<tr>
<th>Target Date</th>
<th>Activity</th>
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<tbody>
<tr>
<td>8/31/16</td>
<td>Share FLSA regulation updates and TU plans with VPs &amp; Divisional Budget Officers</td>
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<tr>
<td>September 2016</td>
<td>Post FLSA information on TU website</td>
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<tr>
<td>September 2016</td>
<td>Begin divisional and departmental discussions about possible reorganizations</td>
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<tr>
<td>9/1/16 – 11/1/16</td>
<td>Divisional and departmental discussions about impacted positions</td>
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<tr>
<td>November 2016</td>
<td>Finalize details in preparation for December deadline</td>
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<tr>
<td>11/16/16</td>
<td>Share FLSA regulation updates and TU plans with TUSC</td>
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<tr>
<td>12/1/16</td>
<td>New FLSA regulations take effect</td>
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<tr>
<td>January 2017</td>
<td>Begin discussions regarding compression</td>
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**UPDATE:** Due to the 11/22/16 injunction, the effective date of the DOL’s overtime rule has been postponed.
Regulation Changes

- The current duties test is not changing – if your duties are exempt today, they’ll continue to be exempt on 12/1/16
  - A new exemption, Academic Administrators, has been added – additional guidance pending

- Final rule, effective 12/1/16, increases the current FLSA exempt annual salary from $23,660 to $47,476

- TU’s exempt structure currently has a minimum annual salary of $37,166

- To be an exempt employee, you must meet the duties and salary tests
Automatic Updates

• Automatic updates will occur every three years, beginning on 1/1/20
Things to Consider

• The FLSA salary minimum applies regardless of full-time equivalent (FTE)
  • As an example, the salary minimum will apply regardless of working a 50%, 75%, or 100% schedule

• Employees not working 12 months and earning less than the annual minimum ($47,476) will be calculated using the weekly minimum ($913/week or $1,826/pay period) to determine exemption eligibility; **no work** can be performed without a separate agreement during breaks

• No changes to current teacher exemptions; faculty members whose primary duties are not related to instruction will require further evaluation

• Coaches may qualify for salary exemption if primary duties are related to instruction
Things to Consider

• There are limited salary exemption opportunities for Academic Administrative employees who help run higher education institutions and interact with students outside of the classroom; utilization of this exemption will require further evaluation

• Graduate students whose primary duty is teaching or serving as a teaching assistant will remain maintain salary exemption under the current guidelines

• Post-docs will be impacted by the new salary regulations

• There are multiple implications for moving exempt employees to non-exempt status, including completing timesheets, defining and recording time worked, and benefits
TU’s Plan

• In most cases, TU will increase salaries to the new minimum threshold; exceptions will mainly be used for FTE considerations

• New non-exempt classifications will be created with some grandfathered benefits for currently exempt employees transitioning to non-exempt due to salary (i.e., FTE)
  ▪ Current retirement plan options will remain unchanged
  ▪ Retain current leave balance
  ▪ Leave will be accrued at the non-exempt rate effective January 1, 2017
  ▪ Employees will receive the difference of the non-exempt and exempt accrual in the form of administrative leave through December 31, 2019; this leave may not be carried over and is not eligible for payout
  ▪ In years when merit is awarded, eligible employees will receive 2.5%

• Employees transitioning to non-exempt status as a result of changing duties will move into an existing non-exempt classification via the reclassification process, and will not receive any grandfathered benefits
Addressing Compression

• Campus discussions will begin in January 2017
• Decisions dependent on various factors, including:
  ▪ TU’s compensation philosophy (TU does not pay for longevity and/or skills and experience above those required for the job)
  ▪ Potential department reorganizations
  ▪ Market stabilization