

# CHANGES TO THE FAIR LABOR STANDARDS ACT (FLSA)

## GENERAL INFORMATION

### What is all this talk about new rules?

The Fair Labor Standards Act (FLSA) is a federal law administered by the Department of Labor (DOL). This law sets employment rules such as minimum wage, the rules for determining eligibility for overtime and the payment of overtime. Upon request from federal administration, the DOL has amended the rules that pertain to the eligibility to be exempt from the payment of overtime. This new rule changes the amount of salary an employee must be paid to be considered exempt from overtime to \$47,476 (\$913 week). **This affects all employers of more than 50 employees, not just Texas Tech.**

### What is the difference between an exempt and nonexempt employee:

#### What is an exempt employee?

Exempt employees are generally expected to devote the number of hours necessary to complete their respective tasks, regardless of whether that requires 35 hours per week or 55 hours per week. Their compensation doesn't change based on actual hours worked. Exempt employees aren't paid extra for working more than 40 hours per week; they're paid for getting the job done.

Exempt positions are excluded from minimum wage, overtime regulations, and other rights and protections afforded nonexempt workers. Employers must pay a salary rather than an hourly wage for a position for it to be exempt. Typically, only executive, professional or outside sales positions are exempt positions.

Exempt employees are not granted the protections of the FLSA and are therefore not entitled to overtime pay. Some types of jobs are considered exempt by definition under the law, but for most professions, an individual is an exempt employee if he or she meets the following three tests:

1. Is paid at least \$47,476 per years (\$913 per week).
2. Is paid on a salary basis.

3. Performs exempt job duties.

#### What is a nonexempt employee?

Nonexempt employees must be paid overtime if they work more than 40 hours per workweek, so it often behooves employers to keep nonexempt employees' hours down.

Nonexempt employees, as the term implies, are not exempt from FLSA requirements. Employees who fall within this category must be paid at least the federal minimum wage for each hour worked and given overtime pay of not less than one-and-a-half times their hourly rate for any hours worked beyond 40 each week.

#### **How do we know which employees are affected by this change?**

The new rule will change the Texas Tech pay plan. There are job titles whose pay grade will not meet the new salary threshold and will no longer be considered exempt. Departmental administrators have been informed of the job titles that will be changing from exempt to nonexempt and should be meeting with affected employees. Employees and supervisors are welcome to contact their local Human Resources office for further information.

#### **When do the new rules take effect at Texas Tech?**

Texas Tech will institute the new rules effective **November 1, 2016**.

#### **What is the workweek for the Texas Tech University System?**

The Texas Tech workweek is Sunday 12:01 am to Saturday 12:00 midnight.

**Deadline Reminders:** Remember that deadlines may differ for ePaf, EOPS or other employee transactions for nonexempt versus exempt employees. Refer to the Payroll Deadline calendars on your portal or the payroll website:

Payroll Deadlines and Pay Date Guide:

<http://www.depts.ttu.edu/payroll/pay-schedule/documents/payroll-services-general-deadlines.pdf>

## EMPLOYEE

### My job is going to be nonexempt.....

#### What is happening to me?

With implementation of the new rules, your position will change to nonexempt even though you may have been exempt for many years. You are still important to Texas Tech and an integral part of the TTU team. This change is simply to the manner and method of your pay, and in no way reflects your value to Texas Tech.

#### When will I be paid?

Pay Period:

Pay Date:

1<sup>st</sup> – 15<sup>th</sup> of the month

25<sup>th</sup> of the month

16<sup>th</sup> – last day of the month 10<sup>th</sup> of the following month

If one of the above pay dates falls on a weekend or institutional holiday, nonexempt employees will be paid on the last work date prior to the weekend or holiday.

Therefore, you will receive a paycheck on November 1<sup>st</sup> for the month of October. You will receive a paycheck on November 23<sup>rd</sup> for the pay period November 1-15<sup>th</sup>. You will receive a pay check on December 9<sup>th</sup> for pay period November 16<sup>th</sup> -30<sup>th</sup>. Your next check will be on December 23<sup>rd</sup> for December 1<sup>st</sup> – 15<sup>th</sup>. And so on.

You will need to consider the financial change that will occur with your personal budget. With the holiday shopping season right after this change, it is important to budget to account for two separate pay periods. Unless you budget for the upcoming changes, this could lead to financial hardship during the holiday months.

#### **Please plan accordingly.**

The 2016 and 2017 calendar year pay periods and pay dates are posted for all employees to view. These calendars can be found on the front page of the payroll website at [www.payroll.ttu.edu](http://www.payroll.ttu.edu). The following link will take you directly to the calendars: <http://www.depts.ttu.edu/payroll/pay-schedule/index.php>

## Is my annual salary going to change?

Although an employee's annual pay will not be reduced as a result of the change to nonexempt, pay check amounts will fluctuate from pay period to pay period based on the number of hours worked in that pay period.

## How does going to be paid twice a month impact my:

**Automatic Drafts:** If you currently have automatic drafts coming out of your bank account, usually at the beginning of the month since that is when you were paid, you may need to make changes. You need to be proactive to make the necessary changes to the dates of these automatic drafts to coincide with your new scheduled pay day dates. Making a change will avoid any issues with overdraft charges, etc. Be proactive and work with your creditors to change due dates of payments if applicable or you can budget the scheduled dates based on your adjusted budgets.

**Deductions:** Taken in equal amounts from each check.

**Important:** If now as an exempt employee, you have **additional Federal Income tax** withheld from your paycheck, you will need to submit a new W-4 based on the fact you will receive two paychecks per month. For example, if you now withhold an extra \$200 per paycheck, you will need to revise your W4 to show an extra \$100 per paycheck. If you need to make this change, complete a new W-4 form with the change to Line 6 and submit the completed form to Human Resources. The link to the W-4 form to make changes if needed is: <https://www.irs.gov/pub/irs-pdf/fw4.pdf>. These new W-4 forms must be submitted to HR by October 24<sup>th</sup> to ensure the correct deduction will be in effective by November 1, 2016.

**Longevity:** Paid on the check issued on the 10<sup>th</sup> day of the month.

**Benefits:** Your benefits will not change, but the premiums will be split between your semi-monthly paychecks.

**Leave accruals:** Your leave taken will be removed from your balances with each pay cycle. Your monthly accrual is added with the processing of the first pay period of the month.

## Are my overall benefits going to be affected?

No, your overall benefits will not be affected. However, overtime payments are eligible for Teacher Retirement System contributions, therefore you will be contributing to TRS on the overtime payment and the employer matching will be contributed on your behalf. This will increase your annual payments reported to TRS.

## How can I determine how many hours will be in each pay period?

Nonexempt employees should access the 2016 and 2017 Pay Frequency Worksheet calculator on the payroll website <http://www.depts.ttu.edu/payroll/documents/2016-pay-frequency-worksheet.xlsx> . This will help you with your personal budgeting.

## How do I report my hours worked?

Nonexempt employees will use the WebTime Entry timesheet accessed from their *Raiderlink/Webraider* portal or use the *Time Clock Plus* system if utilized by their department. WebTime Entry must be completed by the employee and approved by 6pm CT the second business day after the end of the pay period. Time Clock Plus users may have a different deadline.

**Hint:** Put reminders of pay period deadlines for timesheet submissions on your calendars for the first four pay periods to make sure your timesheets are submitted and approved on time to avoid a delay in payment.

For further instructions see:

TTU:

<http://www.depts.ttu.edu/afism/training/documents/WTE%20WLR%20Employee%20Guide%202008%2010%2006.pdf>

TTUHSC: <http://www.ttuhs.edu/hr/documents/EmployeeGuideWTE.pdf>

TTUHSC El Paso:

<http://www.depts.ttu.edu/afism/training/documents/WTE%20WLR%20Employee%20Guide%202008%2010%2006.pdf>

Detailed Webtime entry video tutorials are also available at:

<http://www.depts.ttu.edu/afism/trainingv2/trainingVideos.asp?tabid=contentTab1>

**IMPORTANT:** An employee who fails to submit their timesheet for approval by the deadline will not be paid on the normal on-cycle payroll. If you did not get paid, you will need to contact your department to have them submit a manual check request. All manual checks requests received by Friday 5pm central time to Payroll & Tax Services, [webmaster.payroll@ttu.edu](mailto:webmaster.payroll@ttu.edu), will be paid the following Friday with a paper check. It is extremely important to submit your timesheet for approval on time to avoid this issue. Delay in your payment for a manual check request will be a longer wait during the Christmas break. If you miss the deadline on the December 1<sup>st</sup>-15<sup>th</sup> pay period, which will pay on December 22<sup>nd</sup>, your department will need to submit a manual check request to Payroll & Tax Services; and this manual check will not pay until January 6,

2017. Make sure your timesheet is submitted for approval by the deadline for all pay periods to avoid this issue.

### **If I'm approved for overtime, how and when will it be paid?**

When over 40 hours in a week are worked, the amount of time over 40 hours will be paid at 1 ½ times the regular rate. When a combination of leave and hours worked exceeds 40 hours in a work week, the amount of time worked over 40 hours will be paid at the regular hourly rate. If a work week is split between two pay periods, any overtime calculation will be done with the second pay period. The Texas Tech workweek is Sunday 12:01 am to Saturday 12:00 midnight.

### **How can I calculate my gross pay?**

Nonexempt employees should access the 2016 and 2017 Pay Frequency Worksheet calculator on the payroll website <http://www.depts.ttu.edu/payroll/documents/2016-pay-frequency-worksheet.xlsx>. This worksheet was developed to assist full-time non-exempt employee's budget for their financial obligations based on the fluctuations of work days for each pay period. This is an estimate only based on the assumption of a standard full-time non-exempt employee working 8 hours per day (Monday – Friday) and based on the employee's hourly rate entered into the spreadsheet to determine what the gross base pay will be for each pay period. **The spreadsheet is a great budgeting tool for non-exempt employees based on those assumptions listed above.**

### **What about my last Exempt Leave Report?**

**You will need to submit your MN October Leave Report by October 31, 2016.** This leave report is for leave taken in October, 2016. If you have an issue with submitting the October leave report, please send an email to the payroll webmaster at [webmaster.payroll@ttu.edu](mailto:webmaster.payroll@ttu.edu) so you can receive assistance with the submission. The October leave report must be submitted to ensure your leave balances are correct.

### **Will I be able to carry over any hours from one week to the next for compensatory time purposes?**

Texas Tech does not have a compensatory time policy for nonexempt employees. Hours may not be carried forward from one work week to the next. Nonexempt employees are to be paid for all hours worked in each work week. Your supervisor may "flex" your work hours during a work week to maintain a 40 hour work week.

**I do a lot of travel in my job as an exempt employee. How am I affected since I am going to be nonexempt?**

The DOL rules for paying for travel time for nonexempt employees are very specific and must be followed. Please see the expanded rules for nonexempt travel in your OP's xxxxx and the attached document detailing nonexempt travel.

Discuss your travel before it occurs with your supervisor to determine what hours you will report on your timesheet.

**I have a cell phone allowance. Do I get to keep it?**

Your cell phone allowance will not follow you to your new non-exempt position. If your department considers access to your cell phone for work related reasons an integral part of your job functions, they must follow the procedure for adding the allowance back to your record.

**Do I need to do anything right away in November?**

**Checklist for November:**

1. Open your Web Time Entry timesheet on your first working day for the pay period of November 1<sup>st</sup>-15<sup>th</sup>. If you are on Time Clock Plus, you must clock in.

If you are unable to access your timesheet, you will need to send an email to [webmaster.payroll@ttu.edu](mailto:webmaster.payroll@ttu.edu) and provide your name, R number, and the name of your approver. Payroll will research the issue to get you access to your timesheet ASAP. If you have an issue with clocking in to Time Clock Plus, contact your immediate supervisor.

2. Review the payroll calendar to understand the pay periods and the pay dates associated with those pay periods.
3. Review banking information if you have multiple bank accounts setup for payroll. If changes need to be made to the dollar amounts or percentages going to these accounts, these changes need to be done ASAP before the non-exempt payroll process begins.
4. Put reminders on calendars about payroll WTE timesheets or Time Clock Plus deadlines to avoid delays in payment.

## SUPERVISORS

### I have employees who will now be nonexempt.....

#### How do I determine if my employee is now exempt or nonexempt?

The new rule will change the Texas Tech pay plan. There are job titles whose pay grade will not meet the new salary threshold and will no longer be considered exempt. Departmental administrators have been informed of the job titles that will be changing from exempt to nonexempt and should be meeting with affected employees and their supervisors. Employees and supervisors are welcome to contact their local Human Resources office for further information.

#### What can I do to help my employee transition to the new status?

**Make sure your employee(s) read the Employee Q&A for important information concerning how they will be paid as a nonexempt employee. It will be helpful for supervisors to also read the Employee Q&A.**

#### What is the workweek for the Texas Tech University System?

The Texas Tech workweek is Sunday 12:01 am to Saturday 12:00 midnight.

#### How can I determine how many hours will be in each pay period?

Remember a work *week* is always 40 hours. The number of hours in a *pay period* fluctuates depending on the number of work days in the pay period. Access the payroll website 2016 and 2017 Pay Frequency Worksheet calculator to see hours for each pay period. <http://www.depts.ttu.edu/payroll/documents/2016-pay-frequency-worksheet.xlsx>

#### My now non-exempt employees do a lot of travel for their job. What are the travel rules for nonexempt employees?

The Department of Labor (DOL) rules for paying for travel time for nonexempt employees are very specific and must be followed. Please see the expanded rules for nonexempt travel in your OP's \_\_\_\_\_. It is recommended you discuss with the



nonexempt employee the travel and hours to be reported prior to the commencement of the travel time.

**Can a nonexempt employee carry over any hours from one week to the next for compensatory time purposes?**

Texas Tech does not have a compensatory time policy for nonexempt employees. Hours may not be carried forward from one work week to the next. Nonexempt employees are to be paid for all hours worked in each work week. Your supervisor may “flex” your work hours during a work week to maintain a 40 hour work week.

**If I approved their exempt WebLeave Report, do I now approve their timesheet? How do I approve my employees’ Web Time Entry timesheets?**

Yes, all Web Leave approvers will be transferred automatically as their employees’ WebTime Entry approver. Time approvers access WTE through their Webraider/RaiderLink portal. For specific instructions see:

TTU:

<http://www.depts.ttu.edu/afism/training/documents/WTE%20WLR%20Approver%20Trainer%20Guide%202008%2010%2006.pdf>

TTUHSC: <http://www.ttuhs.edu/hr/documents/ApproverGuideWTE.pdf>

TTUHSC El Paso:

<http://www.depts.ttu.edu/afism/training/documents/WTE%20WLR%20Approver%20Trainer%20Guide%202008%2010%2006.pdf>

Detailed Webtime entry video tutorials are also available at:

<http://www.depts.ttu.edu/afism/trainingv2/trainingVideos.asp?tabid=contentTab1>

The deadline for approving Webtime entry is 6pm the second business day after the last day of the pay period. If a timesheet is submitted and not approved it will be processed through the payroll system. **It is the approvers’ responsibility to always approve timesheets.** A proxy can be established to approve in your absence.

**What if my employee does not submit a time sheet or misses the deadline?**

It is the approver’s responsibility to ensure their employees submit timesheets on time. Employees who fail to submit their timesheets for approval by the deadline will not be paid on the normal on-cycle payroll. If your employee informs you that they did not get paid; you will submit a manual check request. All manual check requests received by Friday 5pm central time to Payroll & Tax Services, [webmaster.payroll@ttu.edu](mailto:webmaster.payroll@ttu.edu) , will be paid the following Friday with a

paper check. It is extremely important that timesheets are submitted on time to avoid this issue. Please note the delay in payment for a manual check request will be a longer wait during the Winter Holiday break. A timesheet that misses the deadline on the December 1<sup>st</sup>-15<sup>th</sup> pay period, which will pay on December 22<sup>nd</sup>, will require a manual check request to Payroll & Tax Services. That manual check will not pay until January 6, 2017. Make sure timesheets are submitted for approval by the deadline for all pay periods to avoid this issue.

### **Do I have a budget for overtime pay?**

Supervisors should consult with their department/business administrators to determine if funds are available for overtime payments.

### **If I don't have a budget to pay overtime, what can I do?**

Supervisors may monitor the hours worked during the work week and "flex" i.e. change any work day hours in that week in order to avoid overtime pay. For example, employees may work 9 hours on Wednesday and Thursday and then just six on Friday. **It is against the law to not pay overtime to a nonexempt employee when they have worked over 40 hours in a work week. It is against the law to add hours to the next pay period. Supervisors not complying with this law will be subject to discipline up to and including separation from employment.**

### **How is overtime calculated?**

When over 40 hours in a week are worked, the amount of time over 40 hours will be paid at 1 ½ times the regular rate. When a combination of leave and hours worked exceeds 40 hours in a work week, the amount of time worked over 40 hours will be paid at the regular hourly rate. If a work week is split between two pay periods, any overtime calculation will be done with the second pay period. The Texas Tech workweek is Sunday 12:01 am to Saturday 12:00 midnight.

### **What is happening with nonexempt employees' cell phone allowances?**

Cell phone allowances will not follow your employee to their new non-exempt position. If the department considers the nonexempt employee's access to their cell phone for work related reasons an integral part of their job functions, they must follow the procedure for adding the allowance back to the employee's record. Remember that

when a nonexempt employee accesses/answers work related information on their personal cell phone in response to their supervisor, not during normal work hours, they must report time worked. At Texas Tech time worked is reported in 15 minutes increments when at least 8 minutes is worked. Therefore if the employee spends 9 minutes after normal work hours, they will report 15 minutes (.25) on their time sheet for that time worked.

**Deadline Reminders:** Remember that deadlines may differ for ePaf, EOPS or other employee transactions for nonexempt versus exempt employees. Refer to the Payroll Deadline calendars on your portal or the payroll website:

Payroll Deadlines and Pay Date Guide and calendars:

<http://www.depts.ttu.edu/payroll/pay-schedule/documents/payroll-services-general-deadlines.pdf>

<http://www.depts.ttu.edu/payroll/pay-schedule/index.php>