

UC Academic Personnel Fair Labor Standards Act (FLSA) Implementation Guidelines

The University of California has set the non-exempt salary threshold for non-faculty, non-student academic appointees in research or administrative positions to \$844 per week (equivalent to \$43,888 per year for a full-year employee). Any non-faculty, non-student academic positions falling under this salary threshold will be re-classified from exempt to non-exempt and will be overtime-eligible.

All faculty, including lecturers, and other teaching titles, will be unaffected by this rule regardless of how much they earn because the minimum salary threshold does not apply to those who have the primary duty of teaching and imparting knowledge. Additionally, the Department of Labor (DOL) does not consider undergraduate and graduate students engaged in research and extracurricular activities employees and therefore they are not subject to minimum wage or overtime provisions of the FLSA.

Separately, academic appointees that meet the definition of a “covered health care employee” and provide patient care, health care services, or services supporting the provision of health care in the following titles: Medical Residents and Interns, Dental Residents, Non-Physician Clinical Trainees, and Clinical Psychology Interns, are subject to the minimum salary thresholds under California Senate Bill 525 (SB 525). SB 525 set a new hourly minimum wage for health care workers and a new exempt minimum wage (which is the greater of 150% of the new health care worker minimum wage for a full time exempt employee or 200% of the regular California minimum wage). Academic appointees were reclassified to non-exempt status and/or had their salaries raised to meet the new minimum wage (\$23/hour) or exempt threshold (\$71,760/year) effective June 1, 2024.

1. Title/job codes are available for non-exempt academic appointees and can be found in UC’s Job Code Lookup System.
2. For appointees determined to be non-exempt:
 - a. They must be appointed in the appropriate non-exempt version of their title (and associated non-exempt salary scale, if applicable).
 - b. New appointment letters (consistent with [APM - 137](#)) must be issued and include the appropriate hourly rate of pay. *Contact your School’s Academic Personnel team for templates.*
 - c. All non-exempt appointees must be paid biweekly on an hourly basis.
 - d. Campuses must carefully consider how the timing of the reclassification will affect each appointee. Campuses must assess the impact on the appointee’s financial situation, including paycheck timing, payment amounts, and benefits deductions; changes will need to be communicated accordingly.
 - i. If transitioning from monthly to bi-weekly pay at the beginning of the biweekly pay cycle but mid-way through the monthly pay cycle, the last monthly check will be for a partial month. (This is the preferred option by UCPath/payroll.)
 - ii. If transitioning from monthly to biweekly pay at the end of the monthly cycle but mid-way through the biweekly pay cycle, the last monthly check will be for a full month’s pay. Campuses will need to work closely with their time and attendance

systems to ensure that the hours are passed correctly, as it may be difficult to make mid-cycle adjustments.

- e. The UCPATH benefits team will review and reconcile benefits deductions, as needed.
 - i. Missed and over-collected premiums will be identified.
 - ii. Employees will be notified in advance of any action to collect or refund amounts in an upcoming check.
 - iii. Note: the timing of premium deductions during the transition, and the reconciliation process that follows, will not cause any lapse in benefits.
 - f. It is important that reclassified employees be encouraged to review their personal budget situation, automatic bill pay, and deductions to plan for the biweekly pay conversion.
 - g. Appointees transitioning from monthly to biweekly pay will have factor accrual of vacation and sick leave, rather than table accrual.
3. How to Determine FLSA Status:
- a. Non-instructional, non-student appointees whose earnings fall below the threshold will be non-exempt.
 - b. To help in determining if a part-time employee's earnings are likely to fall below the threshold, UC Systemwide Academic Personnel (SWAP) has developed an Excel workbook calculator. *Contact your School's Academic Personnel team for a copy.* This tool identifies for each affected series, rank, and step the minimum percentage of effort at which an appointee's earnings would be expected to meet or exceed the annual threshold.
 - c. The salary threshold test assesses whether the appointee earns at least \$844 per week. Annual pay rate and percentage of appointment are only general guides to determining FLSA status; actual regular earnings must also be monitored.
 - d. Percentage-of-effort threshold calculations for titles with salary ranges, and for appointees paid off- or above-scale, must be done separately.
 - e. Other factors of an appointee's employment may affect FLSA status, including whether the appointee holds multiple concurrent appointments in different titles, or receives a regular stipend that increases weekly earnings.
4. Appointees with fluctuating appointment percentages may be non-exempt.
- a. For an exempt appointee, temporary reductions in appointment at the employee's request may not affect FLSA status.
 - b. If an appointee's percentage of time is reduced for funding reasons or other business reasons, this may trigger a reclassification to non-exempt status.
 - c. Frequent shifts from exempt to non-exempt status are inadvisable; it is a great inconvenience to the appointee to shift from monthly to biweekly pay and back again, and it could jeopardize UC's compliance with FLSA regulations.
 - i. If available funding is expected to be insufficient to guarantee that an appointee will remain above \$844 per week, that appointee should be classified as non-exempt and overtime eligible.
5. Appointees on Leave
- a. Exempt appointees on leave are generally not required to be reclassified as non-exempt.

- b. Exempt appointees whose earnings fall below the threshold because they are on partial leave without pay may potentially retain their exempt status.
- 6. Multi-location appointments
 - a. If an appointee holds concurrent appointments at more than one UC location, the appointee's primary duties as well as earnings from all locations must be taken into account when determining FLSA status. Under the FLSA, a University employee can only have one FLSA status, overtime exempt or non-exempt/overtime eligible. In determining whether an employee with multiple appointments is exempt or non-exempt, the University must review the appointee's primary duty for the University. Consultation and coordination between locations is recommended.
- 7. The teaching exception and split appointments
 - a. As noted in item 6, above, under the FLSA, a University employee can only have one FLSA status, overtime exempt or non-exempt/overtime eligible. In determining whether an employee with multiple appointments is exempt or non-exempt, the University must review the appointee's primary duty for the University. Appointees with below-threshold earnings who hold part-time research/administrative appointments and concurrent teaching appointments may be classified as exempt or non-exempt, depending on the individual's primary duty. For an employee to be designated as exempt, the appointee's primary duty at the University should be the performance of exempt tasks.
- 8. Without-salary (WOS) appointments
 - a. Generally, if the without-salary appointee is not earning compensation from UC, they are not considered an employee covered by the Fair Labor Standards Act.
 - b. Holding a without-salary teaching appointment does not by itself automatically mean that an appointee is exempt (per the FLSA teaching exception).
 - i. An administrative/research appointee with below-threshold earnings will be classified as non-exempt, even if they hold a WOS teaching appointment.
- 9. Affiliate appointments - UC Faculty
 - a. The terms of the affiliation agreement between UC and the affiliate govern the employment status of UC faculty placed at affiliate institutions. However, the affiliation agreement will not always be available to you for review.
 - b. If the UC faculty member is not earning compensation from UC and is placed at an affiliate institution, they are not considered a UC employee covered by the FLSA.
 - c. If the UC faculty member is earning compensation from UC and is placed at an affiliate institution, they are considered a UC employee covered by the FLSA.
 - d. HHMI/Ludwig appointees continue to be defined as employees of HHMI/Ludwig; however, if an affiliate employee holding a without-salary UC faculty title who is appointed to an administrative title does not by itself automatically mean that an appointee is exempt (per the FLSA teaching exception).
 - i. An administrative/research appointee with below-threshold earnings will be classified as non-exempt, even if they hold a WOS teaching appointment.
 - e. UC faculty with split appointments, i.e., those with 5/8th VA and 3/8th UC appointments may be classified as exempt or non-exempt, depending on the individual's primary duty. For an

employee to be designated as exempt, the appointee's primary duty at the University should be the performance of exempt tasks (see #7 above).

10. Recall appointments

- a. Faculty Recalls are exempt, due to the teaching exception.
- b. Non-faculty Recalls are exempt or non-exempt, depending on the duties performed and salary earned.

11. Advising PIs/Supervisors

- a. As hourly paid employees, non-exempt appointees must record their time on a daily basis and submit timesheets to report their hours for each biweekly pay period, and the supervisor of record in the timekeeping system will be required to review and approve the hours reported every other week.
 - i. Supervisors must be provided with the appropriate method of timekeeping, whether in electronic or paper format.
 - ii. Expectations as to timekeeping and record retention should be reviewed with supervisors.
- b. The workweek is defined as Sunday through Saturday.
- c. Time worked as well as vacation leave and sick leave hours taken must be recorded in increments of ¼ hour (15 minutes).
- d. Non-exempt appointees will be paid for all hours (and partial hours) worked.
- e. Overtime and time worked beyond appointment percentage.
 - i. Part-time appointees who work more than their stated appointment percentage, but less than 40 hours in a week, will receive pay for the extra hours (or partial hours) worked at their straight-time hourly rate.
 - ii. A non-exempt appointee will receive pay at the premium overtime rate for any time worked in excess of 40 hours in a week, regardless of their appointment percentage.
 - iii. Overtime will be compensated in pay unless your campus allows for compensatory time arrangements ("comp time").
 - iv. All overtime/additional time worked in excess of appointment percentage must be approved in advance by the supervisor.
 1. If an appointee submits a timesheet that reports non-approved time, they still must be paid for that time.
 2. However, working unapproved overtime/additional time can be cause for disciplinary action. Also, if an appointee is regularly working overtime/additional time, the appointee's appointment percentage should be adjusted.
- f. Other compensable time for non-exempt appointees includes:
 - i. *Donning and Doffing*. Time spent changing into or out of protective clothing or engaging in special washing or cleaning procedures is considered time worked.
 - ii. *Travel Time*. If the appointee does not have regular working hours, the supervisor will assign regular work hours for any workweek during which travel will occur for the purpose of identifying and tracking compensable travel time. The travel during the appointee's regular working hours is considered time worked. Travel time

outside of the assigned regular work hours is not time worked unless actual work is performed during that time. *See PPSM 30 for more information.*

- iii. *Rest and Meal Breaks.* The University provides rest breaks during the work day. Meal breaks are not considered compensable time (i.e., a lunch break should not be recorded as time worked).