



2016 FLSA Changes

TOOLKIT FOR SUPERVISORS

UNIVERSITY OF LOUISVILLE HUMAN RESOURCES

The Fair Labor Standards Act (FLSA) and Upcoming Changes in 2016

On May 18, 2016, the Department of Labor issued updated guidelines for FLSA exemption status and the salary threshold. This toolkit will walk supervisors through FLSA and the upcoming changes. Communication with impacted employees is the key to a smooth transition as supervisors and employees adjust to new procedures. Please use this toolkit to assist you in communicating with impacted employees.

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FLSA General Overview

What is FLSA?

The Fair Labor Standards Act (FLSA) determines whether a position is eligible for overtime pay. Positions are either exempt or non-exempt.

EXEMPT	Not eligible for overtime pay
NON-EXEMPT	Must receive overtime pay at time-and-a-half for hours worked over 40 per workweek

To determine if an employee is in an “exempt” status position, they must pass **all** three tests:

- 1) Be paid on a fixed salary basis, not hourly;
- 2) Duties must pass tests under executive, administrative or professional requirements; and
- 3) Salary must be above the minimum threshold of **\$47,476** (effective December 1, 2016)

If any of these tests are not met, the employee shall be considered non-exempt, and eligible for overtime. Non-exempt employees must be **paid** for all time worked.

Higher Education Exception

With the new regulations there is a special carve out for higher education exceptions for jobs such as academic counselors. The University of Louisville minimum salary threshold for this exception is \$30,000. See [Appendix A](#) for more information and a complete list of jobs that fall under this exception.

Exempt and Non-Exempt Status at University of Louisville

FLSA status of staff positions at the University of Louisville affects overtime pay, time reporting, leave accrual rates and the pay frequency.

Exempt and Non-Exempt Comparison Overview

	NON EXEMPT	EXEMPT
TIME REPORTING	Report all hours worked on timesheet.	Do not report hours worked.
ANNUAL LEAVE	10 annual leave days at time of hire, to maximum of 22 days.	15 annual leave days at time of hire, to maximum of 22 days.
SICK LEAVE	12 sick days per year.	12 sick days per year.
PERSONAL LEAVE	personal days per calendar year.	Not eligible for personal days.
OVERTIME PAY	<p>Overtime Straight Pay: For employees that work 37.5 hour workweeks¹ any hours worked between 37.5 and 40 hours must be compensated at the regular rate of pay.²</p> <p>Overtime ‘Time-and-a-Half’ Pay: Any hours worked beyond 40 hours in a workweek must be paid time-and-a-half of the regular rate of pay.</p>	Not eligible for overtime pay.
PAY FREQUENCY	Bi-Weekly	Monthly

¹ The University of Louisville workweek is Friday through Thursday.

² Compensatory time cannot be used to offset any additional hours worked.

2016 FLSA Update: What is changing?

Fair Labor Standards Act (FLSA) New Overtime Rule

On May 18, 2016 the U.S. Department of Labor issued a final overtime rule that changes the exempt employee minimum salary to \$47,476 – more than double the old minimum of \$23,660 – effective December 1, 2016. This salary minimum is scheduled to be updated every 3 years. There were no changes to the duties test.

How does this affect the University?

During this review process, and to ensure compliance with the new federal mandate, some job titles will transition from exempt to non-exempt. Human Resources has completed a full review of all impacted positions and considered the impact of the rule on annual leave accrual rates, morale, pay frequency, work-place flexibility, pay ranges, etc.

Changing from Exempt to Non-Exempt

As mentioned, to ensure compliance, some job titles will transition from exempt to non-exempt. **All employees within an affected job title will move to non-exempt, even if their salary meets or is higher than the new salary threshold.** Letters will be given to supervisors to distribute to all current exempt employees to notify them if they are moving to non-exempt and becoming eligible for overtime or if their exemption status will remain the same.

Exempt Job with Employees to Receive Salary Adjustment

There are some job titles that will remain exempt with employees at a salary below \$47,476. These individuals will have their salary increased to meet the new threshold. These salary changes will be effective December 1, 2016.

Becoming Eligible for Overtime

Employees will become eligible for overtime when they change to non-exempt. To assist with understanding what this means for them, please refer to the table below.

WHAT WILL CHANGE?	WHAT WILL NOT CHANGE?
All hours worked must be reported, including overtime and time off.	Current employees switching to non-exempt will not see any changes in their current annual leave accrual rates, benefits or job title. These impacted employees are “grand-fathered” in and will keep their current leave accrual rates as long as they are in that job title.
All hours worked beyond 40 hours a workweek ³ will be paid overtime pay of time-and-a half.	
Will become eligible for two personal leave days beginning January 1, 2017. 1 day of personal leave will be granted for the remainder of 2016 during this transition.	
The pay schedule will be bi-weekly.	

³ The University of Louisville workweek is Friday through Thursday.

What Impacted Employees Can Expect

Job titles changing to non-exempt will make the transition effective **December 1, 2016** (*this effective date has been updated since original communications*). At that time, employees can expect to see differences in:

1. **Time Reporting** – All hours must be reported, including any overtime and time off.
2. **Pay Period Change** – Begin to receive pay bi-weekly.
3. **Overtime Pay** – Start to receive overtime pay (straight pay up to 40 hours and time-and-a-half for any hours worked over 40 during a university workweek of Friday to Thursday). Non-exempt employees must be paid for all the hours worked, even if it was not pre-approved. Communication between supervisors and employees is key to avoiding this.
4. **Leave Accruals**
 - **Annual Leave:** Impacted employees moving to non-exempt job titles during this transition are “grand-fathered” in and will keep their current leave accrual rates as long as they are in that job title. If the employee leaves that job title for any reason, the “grand-fathered” leave accrual rate will end.
 - **Personal Days:** Impacted employees will receive **one** personal day to use from November 1 – Dec 31, 2016 and begin to receive **two** personal days each calendar year, beginning on January 1, 2017. Personal days are in addition to annual leave. It is important to note that personal days do not carry over like annual leave though and are available only on a calendar year basis.

Things to Consider

During the transition period, there are some things an impacted employee will want to consider:

Paycheck Deductions

Many paycheck deductions selected by employees are set up to have a fixed amount deducted **per pay period**. Because an impacted employee will now be paid bi-weekly, thus being paid more frequently in one month, they will want to make any necessary changes to their deductions to avoid having more deducted from their paycheck than they wish. These deductions may include, but are not limited to, Fidelity or TIAA contributions, additional taxes, parking, etc.

Employees must complete any deduction changes from **November 28 – December 2, 2016** to make sure they are updated for their first bi-weekly paycheck on December 16, 2016. Additional information on how to make these changes will be provided to the employees with their letter.

Different Paycheck Amount

Employees becoming eligible for overtime will not have any change in overall pay. However, since impacted employees will be moving to a bi-weekly pay period, they will need to take into consideration their checks amounts will be different since they will be more frequent. To get an idea of their new gross paycheck amount, employees can visit our online paycheck calculator on the HR website (louisville.edu/hr/flsa).

Benefit Premiums

Impacted employees **will not have to pay any premiums for their health insurance** in the month of November (the final monthly paycheck). The first bi-weekly paycheck they will receive is December 16. The monthly benefit premiums for December (i.e. health, dental, vision, etc.) will be split between the two checks in December (December 16 and December 22).

The next bi-weekly payday is January 13. Supervisors should encourage affected employees to consider the impact of this (and all deductions) on their paycheck ahead of time.

Dates of Importance

DATE	EVENT
NOVEMBER 30, 2016	Last monthly payday for the entire month of November
NOVEMBER 28 DEC 2, 2016	Window for impacted employees to make adjustments to deductions
DECEMBER 1, 2016	Effective date of status changes (<i>this has been updated</i>). Impacted employees need to begin reporting all hours worked, including overtime and time off
DECEMBER 1, 2016	Effective date of salary adjustments. See page 3 for Exempt Jobs with Employees to Receive Salary Adjustment
DECEMBER 16, 2016	First bi-weekly paycheck for 6 out of 10 days (Dec 1-8). Includes ½ of monthly benefits deductions.
DECEMBER 22, 2016	Second bi-weekly paycheck (Dec 9-22), received early due to winter break. Includes ½ of monthly benefits deductions.
JANUARY 13, 2017	Next bi-weekly pay period (for Dec 23-Jan 5)

What Departments and Supervisors Can Expect

Managers and supervisors will need to be mindful of potential changes in expectations and behaviors in order to manage hours within the department budget. It is important to clearly communicate these expectations up front to those changing to non-exempt to avoid unexpected overtime. Managers and supervisors will want to consider the following:

- Discuss expectation to obtain approval for overtime hours and the pre-approval procedure.
- Adjusting work schedules when work must occur outside normal business hours. For example, if an employee knows they will need to work late on a Monday, the supervisor can adjust their schedule to come in later on Monday or leave early on Tuesday to avoid any overtime pay (straight overtime pay up to 40 and time-and-a-half beyond 40 hours). Take into account the university’s workweek is Friday through Thursday. **Adjustments in schedule to offset having to pay overtime can only occur during the same workweek.** As much advanced notice as possible should be provided with schedule adjustments.
- Explain timesheet and departmental time reporting procedures to newly non-exempt employees. Supervisors are responsible for reviewing and signing all timesheets. Supervisors will want to emphasize timesheet deadlines to newly non-exempt employees.

Letter Distribution

Letters will be created for all exempt employees to explain what, if any, changes there will be to their job title. Supervisors will receive these letters from their LFOs, and are expected to distribute them to their employees by October 1. There will be a signature line on each letter for the employee to acknowledge receipt of the letter. The supervisor should return the signed letters to their LFOs, who will send them to HR. If an employee refuses to sign, the supervisor needs to make note of the refusal on the letter, along with their signature and date. Any employee questions should be discussed by the supervisor with the LFO, and then if appropriate, contact Business Operations at 852-7549 or businessoperations@louisville.edu.

Managing Overtime

At the University of Louisville, non-exempt employees have standard hours of either 37.5 hours or 40 hours per workweek. Workweeks are Fridays through Thursday. Employees with standard hours of 37.5 hours per workweek are eligible to receive straight overtime pay (regular rate of pay) for any hours worked between 37.5 hours and 40 hours, and time-and-a-half overtime pay for any hours worked over 40 hours in a workweek. Employees with standard hours of 40 hours in a workweek are eligible to receive overtime pay at time-and-a-half for any hours worked over 40 hours in a workweek.

Supervisors will want to set expectations in regards to working overtime and review the process for having overtime hours pre-approved. Overtime may be necessary at times, but should be pre-approved by the supervisor. However, whether it is pre-approved or not, it must be paid.

Departments may need to change schedules and/or manage employee behaviors to ensure they manage their budget with overtime consideration. For example, if an impacted employee was previously working on average 50 hours a week, the department must determine if it has the budget to continue the overtime hours and pay the employee, or make sure the employee does not work beyond their standard hour of 37.5 or 40 a week going forward with only occasional pre-approved overtime when necessary. See the [Frequently Asked Questions](#) on page 8 for more information.

“Comp Time”



The university may no longer use the practice of compensatory (“comp time”) time. All hours worked must be paid. Any current balances should be used or will be paid out at the end of the fiscal year, June 30, 2017. No additional “comp time” may be accumulated.

Timesheet Training

Supervisors will want to review the departmental process for completing and submitting timesheets with newly converted employees and reiterate that bi-weekly employees follow a workweek of Friday to Thursday. Remember, non-exempt job titles will have a standard hour of a 37.5 or 40-hour workweek. A workweek of Friday through Thursday should be used to determine if an employee will go over the standard hours in a workweek and become eligible for overtime pay. For example, if an employee has worked extra hours each day Monday-Thursday, sending them home a few hours early the next day on Friday will not prevent them from going overtime since Friday will begin a new workweek. The previous Friday’s time worked will need to be factored with the Monday – Thursday hours. **Supervisors are responsible for reviewing and signing all timesheets and will want to emphasize timesheet deadlines to newly non-exempt employees.**

Mobile Device and Computer Usage After Working Hours

Using a mobile device or computer to access work emails or phone calls after work hours is considered time worked (and potential overtime) and must be reported as such. To avoid unexpected overtime, set expectations with non-exempt employees about the use of these devices. Employees should not work on any device after their normal working hours, unless approved by the supervisor and the time is tracked and compensated.

Using devices after normal working hours for non exempt employees	
 Answer phone calls, read email or listen to voicemail	NO , unless approved by the supervisor and paid for time worked.
 Read/respond to email, or any additional work on computer	NO , unless approved by the supervisor and paid for time worked.

Frequently Asked Questions

General Questions

Transition from Exempt to Non-Exempt Questions

Reporting Time and Overtime Pay Supervisor Questions

General Questions

What is the Fair Labor Standards Act (FLSA)?

The FLSA, administered by the Department of Labor, is a federal law that establishes minimum wage, overtime pay, recordkeeping, and youth employment standards for employees in the private sector and in Federal, State, and local governments.

What does it mean to be exempt or non-exempt?

Whether or not an employee is eligible for overtime pay is determined by the regulations in the Fair Labor Standards Act (FLSA). Non-Exempt employees must receive overtime pay at time-and-a-half for hours worked over 40 per week.

To determine if an employee is in an “exempt” status position, they must pass all three tests:

- 1) Be paid on a fixed salary basis, not hourly;
- 2) Duties must pass tests under executive, administrative or professional requirements; and
- 3) Salary must be above the minimum threshold of \$47,476 (effective December 1, 2016)

If any of these tests are not met, the employee shall be considered non-exempt, and eligible for overtime. Non-exempt employees must be paid for every hour worked.

What is changing in the FLSA rule in 2016?

On May 18, 2016 the U.S. Department of Labor issued a final overtime rule that changes the exempt employee minimum salary to \$47,476 – more than double the old minimum of \$23,660 – effective December 1, 2016. This salary minimum is scheduled to be updated every 3 years. There were no changes to the duties test.

Does the University of Louisville have to comply with this new overtime rule?

Yes, this is a federal mandate and the university must comply.

Who will be affected by this change to the FLSA Overtime Rule?

Employees in job titles moving from exempt to non-exempt and employees in exempt job titles that need additional salary to meet the new threshold will be affected. Faculty positions are not affected by this FLSA change.

Who makes the final determination on a job’s exemption status?

Human Resources Compensation is responsible for determining the exemption status for all jobs.

Does being exempt or non-exempt affect benefits or pay?

Yes. FLSA exemption status of staff jobs at the University of Louisville affects time reporting, pay frequency, overtime pay and starting leave accrual rates. For non-exempt job titles, all hours worked must be reported and pay is distributed bi-weekly. See page 1 for [more detailed comparison](#) on leave differences.

How will the rule change affect staff members who work less than full time?

The new ruling does not allow for prorated time. Part-time employees in a job title classified as exempt, but that do not meet the salary threshold of \$47,476, must be considered non-exempt, report their hours and are eligible for overtime pay (straight overtime pay to 40 and time-and-a-half pay over 40). The hourly rate must be a minimum of \$24.35 per hour, which is the hourly equivalent of the new threshold of \$47,476. If the employee changes their standard hours there will be a review to determine if the exempt salary threshold is met or if the job title will remain non-exempt.

Where can I get more information about the new FLSA Overtime Rule?

You can find complete information of the new rule on the [Department of Labor's Wage and Hour Division](#) website and the Human Resources FLSA Website at louisville.edu/hr/flsa. Please contact Business Operations at 852-7549 or businessoperations@louisville.edu with any additional questions.

Transition from Exempt to Non-Exempt Questions

What should I discuss with my employees who are becoming eligible for overtime?

Managers and supervisors will need to be mindful of potential changes in expectations and behaviors in order to manage hours within the department budget. It is important to clearly communicate these expectations upfront to those changing to non-exempt to avoid unexpected overtime. Managers and supervisors will want to discuss expectations for obtaining approval for overtime, potential work schedule adjustments and clearly define timesheet procedures and deadlines.

What will happen to impacted employee leave accruals?

Impacted employees moving to non-exempt during this transition are “grand-fathered” in and will keep their current annual leave accrual rates, as long as they are in their current job title. In addition, they will also receive two personal days a calendar year (beginning January 1, 2017). For the remainder of 2016, one personal leave day will be given. Employees will want to note that personal days do not carry over like annual leave and are available on a calendar year basis. There will be no change to sick leave accruals because all employees receive the same accrual, regardless of exemption status.

Employees are only “grand-fathered” for their current job title. If the employee leaves that job title for any reason, they will no longer have the “grand-fathered” status, and will receive leave accrual rates based on their new job title’s exemption.

Examples:

- A person moves from Job Title X in one department to Job Title X in another department on campus. Do they keep the “grand-fathered” status? **Yes.**
- A person moves from Job Title X in one department to Job Title Y in another department on campus. Job Title Y is also non-exempt. Do they keep their “grand-fathered” status? **No, they are no longer eligible for that status.**
- A person transitions to non-exempt in Job Title X, and then a year later is reclassified to Job Title Y, also non-exempt. Do they keep their “grand-fathered” status? **No, they are no longer eligible for that status.**

Will there be any salary change to employees moving to non-exempt?

Employees changing exemption status will not have a change in their total pay for their standard hours worked. However, they do become eligible for overtime pay for any hours worked beyond their standard hour (straight overtime pay up to 40 hours and time-and-a-half for any hours over 40 in a workweek). The only other change will be to the pay schedule and the frequency of being paid. Non-exempt employees are paid bi-weekly.

How is the hourly rate calculated?

An impacted employee's hourly rate is calculated by taking their annual pay rate and dividing it by their annual standard hours, based on 260 days. For example, an employee with a standard workweek of 37.5 hours would divide his/her annual pay rate by 1,950 to determine the hourly rate.

When do impacted employees get their last monthly check and their first biweekly check?

The last monthly pay date will be on November 30, 2016 for employees transitioning to non-exempt. This will be for the period of November 1-30. The first biweekly pay date, including eligibility for overtime pay, will be December 16, 2016 for the period of December 1 - 8.

Can an employee be eligible to receive overtime and remain on a monthly pay status?

No. All non-exempt positions at the University of Louisville must be paid on a bi-weekly basis.

How will annual leave accrue for new employees hired into a job title that is changing to non-exempt on or after December 1, 2016?

New employees will accrue leave based on the exemption status of the job title (they are not eligible for "grand-fathered" leave accrual rates). Therefore, a new employee hired into a position (on or after December 1) that is changing to non-exempt will be eligible for the starting accrual rate of 10 days of annual leave.

Reporting Time and Overtime Pay Supervisor Questions

How is time reporting different for a non-exempt employee?

Non-exempt employees must record their daily in/out time, including lunchtime in/out, annual (vacation) leave, personal day and sick time usage. Supervisors are responsible for reviewing and signing all timesheets and will want to emphasize timesheet deadlines to newly non-exempt employees.

How is overtime calculated?

At the University of Louisville, non-exempt employees have standard hours of either 37.5 or 40 hours per workweek. For employees with standard hours of 37.5 hours per workweek, they are eligible to receive straight overtime pay (regular rate of pay) for any hours worked between 37.5 hours and 40 hours, and time-and-a-half overtime pay for any hours worked over 40 hours in a workweek. Employees with standard hours of 40 hours in a workweek are eligible to receive overtime pay at time-and-a-half for any hours worked over 40 hours in a workweek. Compensatory "comp time" cannot be used to offset any additional hours worked.

Does time spent answering emails or using a mobile device for work outside of normal hours count towards overtime for non-exempt employees?

Yes. Using a mobile device to access work emails or phone calls after work hours is considered time worked (and potential overtime) and must be reported as such. To avoid unexpected overtime, set expectations with non-exempt employees about the use of these devices. Employees should not work on any device after their normal working hours, unless approved by the supervisor and the time is tracked and compensated.

My grant doesn't allow for overtime. Do I still have to pay it?

Yes, UofL is required to comply with the FLSA and must pay overtime regardless of the source of funding.

Do I have to pay part-time employees overtime for hours worked above their normal schedule?

Yes, if the part-time employee is in a job title classified as exempt, but does not meet the salary threshold of \$47,476. They would be set up as non-exempt. Therefore, they must be paid a minimum of \$24.35 per hour and must be paid for all hours worked. They are eligible for overtime pay (straight overtime pay to 40 hours and time-and-a-half pay over 40 hours.)

Can I require overtime for non-exempt employees?

Yes. Supervisors can require overtime work when necessary. Any hours over 40 will be paid at time-and-a-half. Whenever possible, advance notice should be given.

What if an employee works overtime and I did not approve it? Do I have to pay their overtime?

Yes, non-exempt employees must be paid for all the hours worked, even if it was not pre-approved. Communication between supervisors and employees is key to avoiding this.

Can I offer "comp time" instead of paying overtime?

No. Overtime pay cannot be replaced by compensatory or "comp time" (unpaid time off in a different workweek). Adjustments to a schedule are allowed to remain below 40 hours, but can be done only in the same workweek (Friday through Thursday). Otherwise, all hours worked up to 40 should be paid straight overtime pay and any hours worked over 40 in a workweek must be paid at time-and-a-half.

What do I do if I have an event at night or on the weekend and I need my employee to attend?

You can either pay the employee overtime for the hours worked, if it exceeds 40 hours, or you can make adjustments to their schedule during that same workweek. For example, if you have a four-hour event on a Tuesday evening, you can ask your employee to leave 4 hours early the next day or two hours early the next two days. Remember though, adjustments to a schedule can only occur during the same workweek, Friday through Thursday.

Can I allow flexibility and/or make adjustments to my non-exempt employees' schedule?

Yes. It is at the supervisor's discretion to allow adjustments as long as it is within the same workweek. For example, if an employee typically works 7.5 hours a day and has an appointment that would only allow them to work 6 hours one day, the supervisor and employee can agree that the employee will make up the hour and a half a different day in the same workweek. Take into consideration that a non-exempt workweek at the university is Friday through Thursday (not Monday through Friday) when making alternative schedules. Another example would be an employee who has worked 8.5 hours a day Friday, Monday, Tuesday and Wednesday for a total of 34 hours. You can allow them to leave early on Thursday to avoid going over 37.5 or 40 hours in that workweek. **Remember, this can only be done during the same workweek.** Adjustments cannot be made outside of the current workweek.

Can I still allow my non-exempt employees to travel?

Yes, there is no prohibition on traveling or professional development. Time spent by an employee in travel as part of their principal activity, such as travel from job site to job site during the workday, is work time and must be counted as hours worked. Non-exempt employees need to be mindful of what hours to report while traveling. For travel guidelines for non-exempt employees, see [Appendix B](#) or visit the HR website at louisville.edu/hr/flsa.

How long must a non-exempt employee take for a lunch break?

Lunch periods are required if an employee works 5 consecutive hours. This time taken must be reported on the timesheet. Non-exempt employees are eligible for a 30-minute uninterrupted lunch break.

Can non-exempt employees work through lunch?

Occasionally there may be a work situation where a supervisor will need to approve a non-exempt employee to work through lunch. The non-exempt employee must be paid for that lunch time.

Are non-exempt employees eligible for breaks?

Yes, non-exempt employees are eligible for two 15 minute breaks. These breaks cannot be combined, taken with the lunch break, or used to shorten the workweek. They should not be reported on the timesheet.

Additional Training

Manager and Supervisor Training and Q&A Sessions for Impacted Employees will be scheduled in October. Dates and times will be posted on the HR website (louisville.edu/hr).

APPENDIX A: Higher Education Exceptions – Exempt from Overtime

With the new regulations there is a special carve out for higher education exceptions. The University of Louisville minimum salary threshold for these exceptions is \$30,000. These higher education exceptions include:

- **Teachers (Faculty):** Primary duty is teaching, tutoring, instructing, or lecturing; ***must*** meet teacher entry salary requirement*
- **Academic Administrative:** Includes Academic Counselors, Academic Advisors; ***must*** meet teacher entry salary requirement*
- **Coaches:** Primary duty is teaching/instructing athletes in how to perform their sport; *if primary duty is recruiting or manual labor, subject to overtime.*

* Per FLSA regulations, teachers (faculty) and academic administrators have a separate exemption pay threshold based on the entrance salary for teachers within the same institution. For the University of Louisville, this pay threshold for higher education exceptions for exempt status is an annual salary of \$30,000.

APPENDIX B: Non-Exempt Employee FLSA Travel Pay Chart

Travel Category	Compensable Time (Paid Time)	Non-Compensable Time (Unpaid Time)	Corresponding Regulation
Commuting	<ul style="list-style-type: none"> Performing authorized work-related errands while commuting from home to work or from work to home; Transporting or delivering materials or equipment to a job site prior to the start of the work day and/or returning materials or equipment after the end of the work day; Transporting other employees to work sites, to the office, or to their homes either before or after the workday at management request. 	<ul style="list-style-type: none"> Ordinary travel from home to work (commuting time). 	<p>§785.35 – Home to work; ordinary situation</p> <p>§785.38 – Travel that is all in the day’s work</p>
Travel during the Work Day	<ul style="list-style-type: none"> Time spent in travel as part of the employee’s principal job activity (i.e., travel between job sites). 		§785.38 – Travel that is all in the day’s work
One-Day Assignment in another Town or City	<ul style="list-style-type: none"> Time spent traveling to and returning from a one-day required assignment in another city or town regardless of whether employee is the driver or the passenger, and regardless of whether the travel cuts across the normal work schedule; Time spent at required conferences, meetings, etc. 	<ul style="list-style-type: none"> Normal commuting time will be subtracted; Time not worked even if it is during the employee’s regular work schedule; Meal periods and social activities where attendance is not required and work is not performed. 	<p>§785.35 – Home to work; ordinary situation</p> <p>§785.37 – Home to work on special one-day assignment in another city</p>

Travel Category	Compensable Time (Paid Time)	Non-Compensable Time (Unpaid Time)	Corresponding Regulation
Travel Away From Home Community (Overnight Travel)	<ul style="list-style-type: none"> • Any portion of authorized travel, including time spent waiting at an airport, bus station, etc., that is during an employee’s normal work schedule, including non-work days; • If an employee travels between two or more time zones, the time zone associated with the point of departure determines whether the travel falls within normal work hours; • Riding as a passenger when the employee is required to perform work (for example, to serve as an assistant or helper, respond to email, take business-related phone calls, etc.); • Driving a vehicle, regardless of whether the travel takes place within or outside normal work hours; • Time spent attending authorized conferences, meetings, etc.; • Required attendance at meals or meal breaks where work is performed; • Required attendance at social functions. 	<ul style="list-style-type: none"> • Any portion of authorized travel, including time spent waiting at an airport, bus station, etc., that falls outside of normal work hours; • Riding as a passenger outside of normal work hours where work is not required; • Travel between hotel and meeting site; • If an employee drives a car as a matter of personal preference when an authorized flight or other travel method is available and paying for travel by car would exceed the cost of an authorized method, only the estimated travel time associated with the authorized method will be counted as hours worked; • If the University authorizes hotel accommodations for overnight travel but the employee prefers to drive home each evening; • Regular meal periods where work is not performed and attendance is not required; • Voluntary attendance at social functions; • Time spent outside of the conference or meeting; • Time spent sleeping unless the employee has the primary responsibility for the safety and welfare of students. 	<p>\$785.39 – Travel away from home community</p> <p>\$785.40 – When private automobile is used in travel away from home community</p> <p>\$785.41 – Work performed while traveling</p>

Examples of Commuting:

- 1) You ask your non-exempt employee to stop at Walmart, which is on their way to work, in order to use the ProCard to purchase supplies for an upcoming fair in the department. Although Walmart is on their way to work, you must begin paying them from the time they arrive at Walmart.
- 2) You ask your non-exempt employee to drop-off an envelope of cash to a downtown office after work. Although the employee dropped off the envelope on their way home from work, you must continue paying them until they have delivered the envelope and left the downtown office.

Example of Travel during the Work Day:

- 1) A non-exempt employee works on the Belknap Campus as well as on the ShelbyHurst Campus; the employee frequently travels between the locations, sometimes multiple times a day. Although the employee is commuting between work locations, you must pay the employee for all travel time between locations during the work day. You do not have to pay the employee for their commute to work in the morning or their commute home in the evening.

Examples of One-Day Assignment in another Town or City

- 1) A non-exempt employee drove themselves to Lexington for a work conference taking place from 8am-5pm. The conference registration included a lunch which will occur in a break between sessions, but will include a key note speaker. The employee left their home to travel at 6am and arrived home at 7pm. You must pay the employee from 6am to 7pm that day. Although, the lunch occurred during a break in the conference sessions, there was a speaker requiring attendance and therefore, the lunch period is paid. However, normal commuting time will be subtracted.
- 2) A non-exempt employee rode with a co-worker to Lexington for a work conference taking place from 8am-2pm. The employees chose to see an old friend from 2pm-5pm. The employee and their co-worker left the office parking lot at 6am and arrived back at the lot at 7pm. You must pay the passenger from 6am-2pm, and from 5pm-7pm; although they are a passenger, it is only for a one-day assignment in another city and therefore, their full travel time is paid. The non-exempt driver of the vehicle will be paid for the same periods of time.

Examples of Travel Away From Home Community (Overnight Travel)

- 1) A non-exempt employee has normal working hours from 8:30am to 5:00pm, Monday through Friday. On Sunday, they have a flight departing for a work conference at 11am; the employee arrives at the airport at 9am. The flight will be landing at 3pm and a commute to the hotel will take 45 minutes. You must pay the employee from 9am – 3:45pm even though it is a Sunday (not a work day), because the travel takes place during the employee's normal working hours.
- 2) The same employee from above has flight departing at 6pm on Sunday. You do not have to pay the employee for their travel time provided it does not continue to 8:30 the next morning. If the employee arrives at the airport and experiences multiple delays/layover situations resulting in an arrival at 10am the next morning, you must pay them for the travel time from 8:30am-10am, because that portion falls within their normal working hours.
- 3) A non-exempt employee is driving their coworkers to a conference in North Carolina. The driver and passengers typically work from 8:30am-5pm, Monday through Friday. They will be leaving work on Friday at 4pm and traveling by car until midnight; the driver and passengers also worked that day beginning at 8:30am. You must pay the driver from 8:30am to 12am because she drove the vehicle. Since the passengers did not perform any work during the travel time, they will only be paid from 8:30am-5pm. Passengers traveling for work-related trips longer than one day, may only be paid for time spent traveling during normal working hours.

APPENDIX C: Non-Exempt Employee FLSA Pay Chart

Time Spent During Working Hours		
Compensable Time (Paid Time)	Non-Compensable Time (Unpaid Time)	Examples
<p><u>'Employed' Time:</u></p> <ul style="list-style-type: none"> All time in which employee is necessarily required to remain on the premises, on duty or at a prescribed work place. 	<ul style="list-style-type: none"> A meal break the employee is permitted to leave the premises for, whether they choose to leave or not. 	<ul style="list-style-type: none"> If an employee is permitted to leave the premises at their lunch period, they are not compensated.
<p><u>Employees 'Suffered/Permitted' to Work:</u></p> <ul style="list-style-type: none"> Any work, even if voluntary, which the employee performs. The reason is immaterial – the hours are work time and are compensable. This includes time spent changing clothes for the job, powering up equipment, etc. 	<ul style="list-style-type: none"> Time spent on preparatory and concluding activities, such as changing clothes for the employee's convenience, putting away tools if enough time is already allowed, or waiting in line to punch in or out. 	<ul style="list-style-type: none"> Although you may not have asked the employee to do work, or permitted overtime, if they perform the work they must be paid. Contact Employee Relations in HR to discuss situations in which an employee has performed work not permitted.*
<p><u>Rest & Meal Periods:</u></p> <ul style="list-style-type: none"> Rest periods of short duration, usually 15 minutes or less, promote efficiency of an employee and are customarily paid. 	<ul style="list-style-type: none"> Unauthorized extensions of authorized work breaks so long as the employee has been told 1) the break may only last a specific length of time, 2) any extension is contrary to rules and 3) will result in disciplinary action. 	<ul style="list-style-type: none"> An employee takes a break of 30 minutes, however, their supervisor has stated the break may only last 15 minutes and any break lasting longer than 15 minutes is against policy and subject to disciplinary action. The first 20 minutes of the break must be paid, the remaining 10 minutes are unpaid. Contact Employee Relations in HR to discuss next steps, up to and including corrective action.
<p><u>Rest & Meal Periods:</u></p> <ul style="list-style-type: none"> Meal periods, typically 30 minutes or more, in which the employee is required to perform any duties, whether active or inactive, while eating. 	<ul style="list-style-type: none"> Meal periods, typically 30 minutes or more, are not compensated so long as the employee is completely relieved from any duties. 	<ul style="list-style-type: none"> An employee is permitted to take a 45 minute meal period, however, they must remain in the office to answer an occasional phone call. This employee must be compensated for the full meal period.
<p><u>Sleeping Time & Certain Other Activities:</u></p> <ul style="list-style-type: none"> An employee who is required to be on duty for LESS than 24 hours must be paid for time which they are permitted to sleep or engage in other personal activities when not busy. 	<ul style="list-style-type: none"> An employee who is required to be on duty for 24 hours or MORE, may agree with the supervisor to exclude regularly scheduled sleeping periods (no longer than 8 hours and no less than 5 hours) from compensable time, provided adequate sleeping facilities are provided by the University. 	<ul style="list-style-type: none"> An employee is working a shift lasting from 12am-8pm. During the employee's downtime, they are permitted to rest. The employee must be paid for the entire duration of the 20 hours. If the employee is working 12am-8pm the following day, you may exclude 8 hours of sleep from compensable time so long as the University provided the employee a sleeping facility.

Time Spent Before, After or Between Regular Work Hours		
Compensable Time (Paid Time)	Non-Compensable Time (Unpaid Time)	Examples
<u>Lectures, Meetings and Training Programs:</u> <ul style="list-style-type: none"> Attendance at lectures, meetings, training programs and similar activities which are either 1) inside normal work hours, 2) is required/mandated, 3) is job related or 4) work is concurrently being performed along with attendance. 	<ul style="list-style-type: none"> Attendance at lectures, meetings, training programs and similar activities are not compensable provided: 1) it is outside normal hours, 2) it is voluntary, 3) it is not job related, <u>and</u> 4) no other work is concurrently performed. 	<ul style="list-style-type: none"> An employee who typically works Monday thru Friday, 8:30am to 5pm attends a department required lecture on a Thursday evening at 8pm. The employee must be paid for attendance as it was a requirement of their position.
<u>Travel Time:</u> <ul style="list-style-type: none"> The principles which apply in determining whether time spent in travel is compensable time depends upon the kind of travel involved. SEE TRAVEL CHART. 	<ul style="list-style-type: none"> The principles which apply in determining whether time spent in travel is compensable time depends upon the kind of travel involved. SEE TRAVEL CHART. 	<ul style="list-style-type: none"> SEE TRAVEL CHART.
<u>'Off-the-Clock' Time:</u> <ul style="list-style-type: none"> An employee must be paid for all time worked in a workweek, even if work is performed outside the employee's regular workday. An employee who brings work home or responds to e-mails from home before or after the regular workday must be compensated for the full length of time worked. 	<ul style="list-style-type: none"> As noted above - Time spent on preparatory and concluding activities, such as changing clothes for the employee's convenience, putting away tools if enough time is already allowed, or waiting in line to punch in or out. 	<ul style="list-style-type: none"> An employee who reports to the office 30 minutes early each day due to the bus schedule must be paid for that time if they begin working prior to the scheduled start of the work day. They must be paid even if they do not record on the time on their time sheet. An employee who sends e-mails outside of their normal working hours must be compensated for that work, regardless of whether they noted it on their time sheet.
<u>Attendance at Receptions, Dinners & Other Social Events:</u> <ul style="list-style-type: none"> Any time which an employee is required to attend a reception, dinner, happy hour, or other social event, must be compensated, even though the employee is not performing work they normally perform in the office. 	<ul style="list-style-type: none"> Any time which an employee spends at a reception, dinner, happy hour, or other social event if it was not required and they were not 'pressured' to attend the event. 	<ul style="list-style-type: none"> You suggest to an employee they attend an after work hours social event to increase their number of networking contacts to assist with their job. You must pay the employee for the time at the social event – although you did not state it was 'mandatory' or 'required,' your connection of the event to work duties could be seen as pressuring the employee to attend.
<u>Volunteer Activities:</u> <ul style="list-style-type: none"> Any time an employee spends at a mandatory "volunteer" or "team building" opportunity. 	<ul style="list-style-type: none"> Any time in which an employee volunteers to work an event outside of regular work hours and is not performing work regularly performed. 	<ul style="list-style-type: none"> A research assistant who volunteers to be a greeter at an event on Saturday night (outside their normal hours), and is not required to volunteer, does not need to be paid.

On-Call Hours

Compensable Time (Paid Time)	Non-Compensable Time (Unpaid Time)	Examples
<p><u>On-Call Time:</u></p> <ul style="list-style-type: none"> All time in which an employee is on-call and required to remain on the employer's premises. 	<ul style="list-style-type: none"> Time in which the employee is on-call at home (please note – additional constraints regarding an employee's autonomy could alter this). Time in which the employee is on-call but allowed to leave to leave a message on where they can be reached. 	<ul style="list-style-type: none"> An employee who is on-call and required to stay in a certain location must be paid for the time spent on-call. NOTE: The University provides further compensable time for on-call/stand-by situations. See PER 3.08 and contact Employee Relations in HR to discuss applicability of the policy to your employee.
<p><u>Waiting Time:</u></p> <ul style="list-style-type: none"> All time in which an employee is engaged to wait for an action or duty. All time in which an employee is not performing work, but is waiting for an assignment and is not free to leave. 	<ul style="list-style-type: none"> All time in which an employee is waiting to be given a work task. If an employee is told they may leave and come back in a few hours, the time is not compensable. 	<ul style="list-style-type: none"> An employee who is waiting for a call from their supervisor to assign them work tasks must be paid as they are not free to leave.

Overtime Compensation at the University of Louisville:

Under FLSA (Fair Labor Standards Act), no employee may be employed for more than 40 hours in a week without receiving at least one and one-half times their regular rates of pay for the overtime hours.

The University of Louisville employs staff who work for 40 hours per week as well as staff who work for 37.5 hours per week. Note, an employee working 37.5 hours per week will enter 'overtime straight' between the hours of 37.5 and 40, however, that portion of overtime will remain at their regular hourly rate. When a 37.5 hour employee or a 40 hour employee works more than 40 hours, they will begin receiving overtime at a rate of one and one-half times their regular rate.

*Non-exempt employees should be instructed not to perform work beyond their regular work schedule unless they receive prior approval from their supervisor. If an employee fails to obtain approval but performs work, he or she MUST still be compensated for that time, but the University may address the situation as a disciplinary matter. Supervisors should carefully consider work schedules for non-exempt employees, and establish policies regarding off-the-clock work to avoid potential violations of overtime requirements. For example, if you know your non-exempt employee (regularly scheduled M-F, 9am-5pm) will need to work until 9pm one evening, you may use a flexible scheduling approach to set their hours by notifying them two weeks in advance their hours will be changed to 1pm-9pm on that day.