



OFFICE OF THE PRESIDENT
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November 5, 2019

EXECUTIVE VICE CHANCELLORS/PROVOSTS
VICE CHANCELLORS OF RESEARCH
VICE CHANCELLORS OF ADMINISTRATION
VICE PROVOSTS/VICE CHANCELLORS FOR ACADEMIC PERSONNEL/ACADEMIC AFFAIRS
CONTROLLERS

Dear Colleagues:

We write to update you on the University's position regarding the Department of Labor's new overtime rule changes to eligibility.

The United States Department of Labor (DOL) has approved a change in the federal Fair Labor Standards Act (FLSA), effective January 1, 2020. The revised rule increases the minimum salary threshold for overtime-exempt employees from the currently enforced level of \$455 per week (equivalent to \$24,660 per year for a full-year worker) to \$684 per week (equivalent to \$35,568 per year for a full-year worker).

The University will be taking two separate approaches to the DOL's final rule change, depending on whether the employee is an academic appointee or staff employee.

Academic Appointees

All faculty, including lecturers, as well as other teaching titles will be unaffected by this rule no matter 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 DOL does not consider undergraduate and graduate students engaged in research or extracurricular activities employees, and therefore they are not subject to the minimum wage or overtime provisions of the FLSA. Non-faculty academic appointees in research or administrative positions, however, must meet both the duties test and the salary test.

Pursuant to the revised overtime rule, non-faculty academic appointees in research or administrative positions must receive a salary of at least \$684 in each week in which the appointee performs any work regardless of the number of days or hours worked to qualify for the exemption under the FLSA. This means that in order to remain exempt, both full-time and part-time academic appointees must earn at least \$684 per week. Academic appointees who no longer meet both the new salary threshold and the duties test will be reclassified as non-exempt overtime-eligible.

UCOP Academic Personnel and Programs will develop and distribute a toolkit to the Academic Personnel Directors at your locations in order to assist in the implementation of the new FLSA regulations by the January 1, 2020 effective date. In the meantime, if you have questions, you may contact your campus Academic Personnel Office.

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Staff Employees

In 2016, the DOL proposed an overtime rule increasing the minimum salary threshold for exempt employees to \$913 per week (approximately \$47,476 per year.) This proposed increase was challenged in court and eventually enjoined by a federal judge. Because UC had already implemented the increased salary level, the University decided to retain the higher salary threshold for staff employees. After careful consideration of the new overtime rule, the University will continue to retain the higher salary threshold of \$913 per week (approximately \$47,476 per year) for staff employees.

Some exempt staff employees are not subject to the salary level test. This means they are overtime-exempt even if they earn a salary that is below the new salary level. For example, University coaches who have the primary duty of teaching or instructing student athletes are overtime-exempt even if they earn less than the \$913 salary threshold. For coaches primarily engaged in administrative duties, however, the salary threshold of \$913 per week applies.

Director Weinstein will work with Chief Human Resources Officers and Compensation Managers to ensure continued compliance for staff personnel. In the meantime, if you have questions, you may contact your local Human Resources.

Sincerely,



Susan L. Carlson
Vice Provost, Academic Personnel and Programs



Cheryl Lloyd
Acting Vice President, Human Resources

- cc:
- President Napolitano
 - Chancellors
 - Laboratory Director Witherell
 - Provost and Executive Vice President for Academic Affairs Brown
 - Executive Vice President, Chief Operating Officer, and Chief of Staff Nava
 - Academic Council Chair Bhavnani
 - Executive Vice President Byington
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 - Executive Director Baxter
 - Executive Director Chester
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 - Executive Director Peterson
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