

**UNIVERSITY OF HOUSTON SYSTEM
ADMINISTRATIVE MEMORANDUM**

SECTION: Human Resources

NUMBER: 02.B.07

AREA: Compensation

SUBJECT: Fair Labor Standards Act

1. PURPOSE

- 1.1. The [Fair Labor Standards Act of 1938 \(FLSA\)](#) is a federal statute which establishes minimum wage, overtime pay, compensatory time, child labor, equal pay, and recordkeeping requirements. Overall responsibility for enforcing the [FLSA](#) is assigned to the U.S. Department of Labor, with specific authority for the equal pay provision delegated to the Equal Employment Opportunity Commission.
- 1.2. The purpose of this administrative memorandum is to establish the University of Houston System's policy pertaining to compliance with the [FLSA](#).

2. POLICY

- 2.1. All faculty, staff and student employees of the System are covered by the [FLSA](#), although specific provisions exempt certain classes of employees from its minimum wage and overtime pay/compensatory time requirements, and the System adheres to provisions of the Act in the administration of salary, wage and work hours for all employees. An employee's rights under the Act may not be waived.
- 2.2. Each System university human resources department is responsible for the day-to-day administration of this policy and for ensuring compliance with the Act. The System university chief human resources officer, or designee, will have final authority for determining exemptions from overtime provisions of the [FLSA](#).
- 2.3. The policy of the University of Houston System and its universities is to ensure equal opportunity in all its educational programs and activities, and all terms and conditions of employment without regard to age, race, color, disability, religion, national origin, veteran's status, genetic information, or sex (including pregnancy), except where such a distinction is required by law. Additionally, UH System prohibits discrimination in all aspects of employment and educational programs on the basis of sexual orientation, gender identity, or gender expression. For the UH System's Official Non-Discrimination Statement, see [SAM.01.D.05 – Equal Opportunity and Non-Discrimination Statement](#).

3. POLICY PROVISIONS

- 3.1. Salary and Wage Administration: The System is exempt, along with some other State institutions of higher education, from participation in the State's Classified Plan, and has developed classification and compensation plans at all System universities which comply with [FLSA](#). Such classification and compensation plans which prescribe the salary range authorized for each position of employment shall be administered, maintained and published by the human resources department at each System university. The presidents, provosts, deans, and academic department heads are responsible for salary administration of faculty members and other teaching and research professionals.
- 3.2. Determination of Exemption Status of Employees: Each employee's overtime pay and minimum wage coverage under the Act (exempt or non-exempt) is determined in accordance with the terms of the Federal regulations cited herein. All System job categories are determined as "exempt" or "non-exempt" as defined by [FLSA](#). [This](#) link contains the [FLSA](#) tests required to determine whether an employee's position should be in the Exempt category and therefore exempt from the [FLSA](#) overtime provisions. Specific administrative guidelines concerning compensation, work hours, etc. for each employee job category are set out elsewhere in this memorandum.
- 3.3. Equal Pay for Equal Work: The [Equal Pay Act](#), which in 1963 was passed as an amendment to the [Fair Labor Standards Act](#), applies to all employees of the System. It prohibits wage differentials based on sex, between persons employed in the same establishment on jobs that require equal skill, effort, and responsibility and which are performed under similar working conditions. The law permits differences based on factors other than sex such as bona fide seniority or merit systems or systems which reward productivity.
- 3.4. Overtime and Compensatory Time: Non-exempt employees are subject to the overtime provisions of the [FLSA](#). Compensation for all hours worked in excess of forty (40) hours in the standard workweek shall be handled in accordance with [SAM 02.B.02](#). Exempt employees are not eligible to receive compensation for hours worked in excess of the forty (40) hours in the standard workweek but may receive compensatory time off under certain circumstances (see [SAM 02.B.02](#)).
- 3.5. Child Labor Provisions: The System adheres to all [FLSA](#) provisions in connection with child labor. Fourteen years is the minimum age for workers at the System in a non-hazardous job. The minor employee may only work if employment is outside school hours and is for no more than three (3) hours on a school day, eighteen (18) hours in a school week, eight (8) hours on a non-school day, or 40 hours in a non-school week; with the additional condition that work may not begin before 7:00 a.m. nor end after 7:00 p.m., except from June 1 to Labor Day when evening hours may be extended to 9:00 p.m.

- 3.6. Minimum Wage: The System is obligated to pay the federal minimum wage prescribed by [FLSA](#). It is the policy of the System to pay all workers, including student workers, no less than the federal minimum wage.
- 3.7. Posting of FLSA Notice: The System shall post, and keep posted, notices pertaining to the applicability of the [FLSA](#), including minimum wage and child labor.
- 3.8. Recordkeeping Requirements: Records and reports associated with salary and wage payments required by federal and State law and by accounting systems of the System are incorporated in the payroll/personnel system.
- 3.9. Penalties: The Secretary of Labor has delegated authority to representatives of the Wage and Hour Division of the Department of Labor to undertake inspections and investigations to determine employer compliance with the law. They may enter the employer's premises to inspect and transcribe records and interview employees to determine if violations have occurred. The Department of Labor will usually seek voluntary compliance if violations are discovered; however, if this method is unsuccessful, the Act provides remedies through the courts. An employee or group of employees may sue to recover withheld wages, liquidated damages, attorney's fees and court costs, or the Department of Labor may initiate the court action. The Act also prescribes criminal penalties for intentional violations, and permits injunctive measure to ensure future compliance.

In the event an examination is initiated by Wage and Hour representatives, or the Equal Employment Opportunity Commission, department heads shall immediately be directed to the System university chief human resources officer. The Act forbids discharge of or discrimination against any employee who files a complaint alleging noncompliance or who participates in legal proceedings under the law.

- 3.10. Administration: Each System university's chief human resources officer is responsible for administering and interpreting the [Fair Labor Standards Act](#) for the System university. All inquiries, as well as requests for special exemptions or interpretations, are to be submitted to the System university human resources office.

4. REVIEW AND RESPONSIBILITY

Responsible party: Associate Vice Chancellor, Human Resources

Review: Every five years

5. APPROVAL

Approved: Raymond Bartlett
Senior Vice Chancellor for Administration and Finance

Renu Khator
Chancellor

Date: May 27, 2021

6. REFERENCES

[Exemptions of Executive, Administrative and Professional Employees \(FLSA\)](#)

[SAM 02.B.02 – Overtime and Compensatory Time](#)