

MICHIGAN STATE UNIVERSITY

January 6, 2016

MEMORANDUM

TO: Deans, Directors, and Chairpersons

FROM: Theodore H. Curry II, Associate Provost and Associate Vice
President for Academic Human Resources
Sharon Butler, Assistant Vice President for Human Resources

SUBJECT: Proposed Regulations of the Fair Labor Standards Act (FLSA)

On June 30, 2015, the Department of Labor (DOL) issued proposed regulations of the Fair Labor Standards Act (FLSA). The FLSA, which is an act that, in general, requires overtime and a minimum wage for all non-exempt employees. Under current FLSA regulations, an employer can classify an employee as exempt under what are referred to as the white collar exemptions, only if the employee meets both of the following tests: (1) *salary level test* – they make above a certain salary level, currently approximately \$23,000 annually, and (2) *duties test* – their duties consist of certain executive, administrative or professional functions. Exceptions are provided for employees who fall into specific categories such as teachers, doctors, and lawyers. In these cases, these exceptions do not require the salary level test.



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The DOL has announced a proposed rule that would more than double the salary level. Employees who earn as much as **\$970 a week, or \$50,440 a year**, and are currently classified as exempt, would be considered non-exempt under the proposed regulations (again, there are exceptions). This means employees who are currently exempt may become non-exempt in the near future, and would be required to be paid overtime. In addition, the DOL is looking for ways to prevent the salary level from becoming outdated (e.g., annual increases to the salary level).

The proposed rule has a significant impact on faculty and academic staff positions as an estimated 1,000 faculty and academic staff positions, currently classified as exempt, do not meet the proposed salary level of \$50,440. However, a large portion of faculty and academic staff positions meet the criteria specified in the “teacher exemption.” Teachers are generally considered exempt, regardless of salary level, if their primary duty is teaching, tutoring, instructing or lecturing in the activity of imparting knowledge. The greatest impact of the proposed rule will be on academic staff positions whose primary duty is not teaching, such as Research Associates, and Academic Specialists.

In terms of support staff, the impact is estimated to affect fewer employees – an estimated 360. Approximately 100 of these employees are Administrative Professional Association members.

The date of issuance of the final regulations could be as early as mid-2016, with an effective date likely to be shortly thereafter. However, given that the DOL is reviewing hundreds of thousands of comments submitted in the review process, estimates are closer to the end of 2016. Time will tell whether the comments will cause changes to the proposed regulations.

Academic Human Resources, jointly with Human Resources and the Office of the General Counsel, have formed a working group to discuss the impact of the proposed new rule, and how to implement these changes university-wide. At this time, we are only bringing this issue to your attention. Our offices will send updates as information becomes available on this matter.

Questions can be directed to:

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