

**MICHIGAN STATE
UNIVERSITY**

December 1, 2016

MEMORANDUM

TO: Deans, Directors, and Department Chairs

FROM: Sharon Butler, Associate Vice President, Human Resources *S. B.*
Theodore H. Curry II, Associate Provost and Associate Vice President for Academic Human Resources *T. H. C.*

CC: HR Unit Reps and Budget Officers

SUBJECT: Fair Labor Standards Act new regulations – update

On November 22, a federal judge in Texas issued a temporary injunction which halts the implementation of the changes to the new Fair Labor Standards Act (FLSA) regulations. The regulations were scheduled to become effective December 1, 2016. The injunction applies nationally and affects MSU. Because the injunction is temporary, but of indefinite duration, and because it may be appealed, we are left with uncertainty about when or whether the new regulations will become effective.

In preparation for the December 1st effective date, MSU spent significant time working proactively to inform the campus community about how to meet our new regulatory obligations. Most, if not all, impacted employees have already received communications about the effect of the law on them. Now, due to the injunction, effective immediately we will suspend all actions associated with compliance with the new FLSA regulations as follows:

1. Please inform impacted employees (those affected by the new regulations) of this announcement.
2. For those impacted employees who were told that they would become non-exempt, please explain that because of the injunction, they will remain exempt (not eligible for overtime or required to track hours worked) until further notice.
3. Pay increases made due to the FLSA regulations and processed *prior to November 22, 2016 (the date of the injunction)* through the raise process, reappointments, or the out-of-cycle pay change process will remain in place. “Processed” means those actions **fully executed and approved** through the HR/Payroll system.
4. Pay increases associated with an annual reappointment, regardless of whether those actions have been fully executed through the payroll system, will be approved.
5. Pay increases made in response to the regulations that have been communicated to employees verbally or in writing, but not yet processed or paid, will not be approved.



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6. If the FLSA salary threshold prompted your department to conduct a comprehensive review of salaries which resulted in salary adjustments being made for reasons other than the new FLSA threshold, you may proceed in submitting an increase request as outlined in the [Out of Cycle Base Salary Increase](#) policy.
7. With regard to time tracking for Support Staff:
 - a. The following employees will not be required to track hours worked, regardless of level:
 - i. APA/APSA employees;
 - ii. Non-union employees whose conditions of employment follow the APA/APSA contracts per policy; and
 - iii. Other employees impacted by the new regulations (see chart: <https://drive.google.com/file/d/0B9ga9yJB8S6pcFMxaUo1b0ZkR00/view>).Because of the injunction, their status under the FLSA remains exempt and we are compliant contractually with our current EBS exception-based time reporting system.
 - b. CTU employees, and other non-exempt employees, who have been and will continue to be legally eligible to earn overtime will still be required to track hours worked, under new time tracking guidelines issued by the University.
 - c. We will be sharing electronic time tracking methods units have developed on the site www.hr.msu.edu/flsa along with revised FAQ's.
8. Regardless of the injunction, to ensure compliance with existing FLSA statutory and regulatory requirements, the University will move forward with the roll-out of the newly developed overtime and compensatory time policies and the compensatory time agreement for non-exempt employees. These policies were described in the October 26 Deans, Directors and Chairs memo and attached thereto. Our offices will modify the overtime and the compensatory time policies to reflect changes caused by the injunction. We will communicate these revised policies shortly.

We recognize that this announcement requires you to pivot quickly and may produce many more questions. We appreciate your continued leadership with respect to this important issue and will continue to keep you informed as we obtain more information with regard to the injunction and anticipated appeals. In addition, please continue to check www.hr.msu.edu/flsa for more details.