CLEMSON®
HUMAN RESOURCES

Guidance for Supervisors: Communicating and Meeting with Employees Who Are Becoming Nonexempt

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Introduction

The U.S. Department of Labor recently passed legislation regarding the Fair Labor Standards Act (FLSA) Final Rule. Implementing these changes means some potentially challenging conversations with employees. Supervisors across the nation will have to notify exempt workers that their salaries and/or duties make them nonexempt by changes of the FLSA. It is possible that an employee who has had flexibility and never had to log time will now be required to keep track of their time and follow a more rigid schedule. In order to properly communicate the effects of the FLSA ruling to your affected employee(s), it is important that you to prepare for these conversations.

The following information was developed to assist you in meeting with and speaking to employees regarding changes brought about by the Final Rule. The Office of Human Resources is available to assist you further if needed.

Communicating and Meeting with Employees Who Are Becoming Nonexempt

To ease an employee's transition from an exempt position to a nonexempt position, begin by meeting with the impacted employee and communicating this change in person. This meeting will allow you to explain how the decision was made, listen to the employee's immediate concerns and direct them to attend an FLSA training session offered by the Office of Human Resources. Detailed guidance has been provided below.

Prior to the Meeting

Schedule a private one-on-one meeting with each impacted employee.

a. Schedule this meeting immediately after you receive your email confirmation from the Office of Human Resources. This email confirms the employees you supervise who are impacted by the new FLSA ruling. Your impacted employees will receive their email notification just a few days after you have received your confirmation.

Consider how the change will impact each employee.

a. Prepare to respond to questions based on how each employee perceives this change.
b. If unsure how to address some anticipated perceptions, feel free to contact your HR partner or include them in the meeting.
c. Be prepared to explain to your impacted employees the differences in an exempt position versus a nonexempt position.
   - Nonexempt employees:
      i. Entitled to overtime pay after 40 hours of work per week (Sunday through Saturday)
      ii. Must track their time through an approved timekeeping method
      iii. Must get overtime pre-approved
   - Exempt employees:
      i. Are not entitled to overtime after 40 hours of work per week (Sunday through Saturday)
      ii. Are not required to track time
d. Learn your department's requirements for approving compensatory time and/or overtime pay. Your direct supervisor will be able to assist you.
e. Know whether your unit uses paper time sheets or Kronos for tracking hours worked. Check with your HR partner if you are uncertain.
f. Review the prepared FLSA FAQS located on the HR webpage at www.clemson.edu/employment/flsa.
g. Prepare for the emotional side of the meeting.

- An employee may feel hurt or under-appreciated because many employees put a value on being considered exempt. Employees may see the FLSA status change as a demotion.
- Emphasize that this change is just a categorization of pay and not a reflection of their importance as an employee and their level of contribution.
- An employee may express concern over the loss of flexibility within their schedule.

Tips on How to Respond to Your Employee

Since the FLSA ruling is a federal regulation, there may be some limitations on what you can do to work with your employee during the transition. The Office of Human Resources offers these ideas:

Concern	Resolution
Uncertainty on how to handle after work emails, texts, and calls	Work together to establish clear working expectations on which both the supervisor and employee agree. Document this discussion.
Fear and concern that there is too much work to get done in 40 hours.	Discuss openly the work hours and work distribution.
Employee is worried that their performance evaluation will be impacted because they cannot effectively complete their work in 40 hours.	Discuss how the employee will be evaluated now that their work may not be able to be completed in 40 hours. Document this discussion.
Concern that the workload is too overwhelming.	Maybe the workload is so large that there needs to be consideration given to the distribution of work.
Anxiety about tracking hours and making mistakes.	Encourage the employee to attend a training session. Share with them that this is a new process and both of you are learning. Encourage the employee to ask questions. Be patient and understanding with them.
Concern regarding how to handle requests to work after their regular work schedule.	In some instances, there may be a need to flex an employee's hours. Work with the employee when needed. Ask the Office of Human Resources if you have additional questions on how to be successful in flexing work schedules.

Be prepared to answer potential questions

The Office of Human Resources encourages you to listen to your employee's questions and concerns; however, try to defer questions to the training. The intent of asking the employee to wait to have questions answered in the training is to ensure a consistent message.

Here are some straightforward questions that you can address if you are comfortable doing so:

When will this change take place?	December 1, 2016

Will my pay change?	Your base pay will not change; you will learn more about how your weekly pay will now be calculated in the training.
Does this mean I have to clock in/log time etc.?	Yes
Will this impact my annual leave or sick time?	No
Does this mean I am eligible for overtime?	Yes

Conducting the Meeting

Initiate the conversation (Opening talking point)

a. "As you may have heard, the federal government has made a change to the Fair Labor Standard Act (FLSA) that has impacted over 1000 employees at Clemson University. Clemson retained an external attorney to review every position at Clemson in light of the new FLSA requirements. As part of the review, your FLSA status will be changing as of December 1st from exempt to non-exempt."
b. Be prepared to discuss the differences between exempt positions and non-exempt positions.
    - Nonexempt employees:
        i. Entitled to overtime pay after 40 hours of work per week (Sunday through Saturday)
        ii. Must track their time through an approved timekeeping method
        iii. Must get overtime pre-approved
    - Exempt employees:
        i. Are not entitled to overtime after 40 hours of work per week (Sunday through Saturday)
        ii. Are not required to track time

Communicating the Change:

a. Share with employees not just what will happen but <u>why</u> it is happening so they understand it is no reflection on their performance.
b. A benefit for the employee is that they will now receive compensatory time or over time for time worked over 40 hours in a work week when they did not before. On a week to week basis, employees should discuss the potential for work that would require work that results in more than 40 hours that week.
c. Explain that the new rule does not require impacted employees to become hourly workers. If they are currently salaried they will remain salaried.
d. Explain that they will be required to track time via either paper timesheets or KRONOS (depending on your division). Inform them that training on how to be successful when tracking time will be provided.
e. Discuss that their work hours may not be as flexible as they were in the past, however, not all flexibility is lost. Flexibility will be determined on a case-by-case basis.
f. Many newly nonexempt workers will have a lot of fears whether they can complete their job effectively in 40 hours and still be considered a strong performer.

Therefore, supervisors need to be clear on the time nonexempt employees should and should not work. Discuss FLSA and Timekeeping Training

a. Explain that you will be attending a supervisory training that will detail how this change will impact both you and the employee.
b. Notify the employee that the Office of Human Resources has also scheduled training sessions for all impacted employees. Allow your employees to attend the FLSA training session. Preparation and training can help them transition more easily into their new status. Employees will receive a letter with details on how to register for the training. The times and dates of these trainings are as follows:

Date	Time	Location
November 10, 2016	9 a.m. to 10:30 a.m. (KRONOS)	Webinar
	1:30 p.m. to 3 p.m. (Paper Timesheets)	
November 11, 2016	10:30 a.m. to noon (KRONOS)	McKissick Theater, Hendrix Student Center
	1:30 p.m. to 3 p.m. (Paper Timesheets)	
November 14, 2016	8 a.m. to 9:30 a.m. (Paper Timesheets)	McKissick Theater, Hendrix Student Center
	10 a.m. to 11:30 a.m.(KRONOS)	
November 15, 2016	8:30 a.m. to 10 a.m. (KRONOS)	McKissick Theater, Hendrix Student Center
	10:30 a.m. to noon (Paper Timesheets)	
	1:30 p.m. to 3 p.m. (KRONOS)	
November 16, 2016	1:30 p.m. to 3 p.m. (Paper Timesheets)	McKissick Theater, Hendrix Student Center
November 17, 2016	8:30 a.m. to 10 a.m. (KRONOS)	McKissick Theater, Hendrix Student Center
	10:30 a.m. to noon (Paper Timesheets)	
	1:30 p.m. to 3 p.m. (KRONOS)	
November 18, 2016	8:30 a.m. to 10 a.m. (Paper Timesheets)	McKissick Theater, Hendrix Student Center
	10:30 a.m. to noon (KRONOS)	
	1:30 p.m. to 3 p.m. (Paper Timesheets)	

Available Webinars

Employees can also view recorded FLSA webinars on the Office of Human Resources website.

c. Reiterate the Opening Talking Point: "This change is new for us both and the training will help us to understand the reasoning for the decision as well as our new responsibilities. Please choose a time that suits your schedule, sign up and attend one of these sessions. After the meeting, we can discuss if there are any questions with regards to tracking time and hours worked."
d. During the meeting listen, show concern, be positive, and share what you know.

Take Time to Watch and Listen

With respect to these upcoming FLSA changes, take time to watch and listen carefully to your employees. Change can create anxiety and can unsettle your employees and negatively impact the workplace. Sometimes employees will express their anxiety directly to you, but other times their anxiety becomes apparent through changes in their behavior or performance. This is especially the case when change threatens their comfortable and stable routines. Talk to each employee individually and listen to their concerns and fears. As your employees change to nonexempt status, listen to their concerns and fears. <u>Do not tell them how they should feel.</u> Empathize with them and paraphrase what they are saying. Employees are going to want to know that you understand, care; your care and concern is best illustrated through empathetic listening.

Demonstrate Your Genuine Concern

As a supervisor, you already know that you cannot achieve your goals if your employees are not performing at their very best. Your employees who are facing this change look to management for solutions. They seek guidance when they feel uncertain and isolated from organizational decisions that are out of their control. As a first step, be an example of transparency and honesty. Open the lines of communication. Talk openly and regularly about what you know, and encourage their input. Show you truly care about their welfare by understanding their concerns and by doing whatever you can to help them. This not only helps you solve any problems you have direct influence over, but also helps them by allowing them to talk freely about what is troubling them.

Be Positive and Look for Opportunity

During times of change it is easy, as a supervisor, to get just as frustrated as your employees. Remain positive and lead by example. Challenge your employees to take initiative and seek out solutions or the positives with the change. Encourage employees to take the initiative and to be positive and focus on what can or might be done, rather than fixating on events over which they have no control. Your newly nonexempt employees will be compensated for all of their time worked and will be paid time and a half for time worked over 40 hours in a work week. Workers newly made nonexempt should know the actual benefits of being non-exempt. The primary benefit for them is the ability to have additional earnings. Also, for some, there is the increased chance of achieving work-life balance. Share those perks to ease them into their new status.

Share What You Can

After hearing concerns and gathering input, fix the things that you have control over. If, after listening to your employees, you discover an easy solution to dispel their angst, take the initiative to fix whatever you can as quickly as you can. A reassuring word or guidance from management can have a profoundly positive impact on employees in times of uncertainty. If you find the problems caused by change are beyond your scope, avoid promising your employees things you cannot deliver in the future.

Closing the meeting

Thank the employee for their time and encourage them to be positive and patient as you both move through this change.

Ask them to let you know which training they plan to attend.

Encourage them to schedule a post training meeting with you if they still have concerns after attending the OHR training.

As a supervisor, remember to utilize your HR partner or the Office of Human Resources as a resource and support.