

FAQs Related to Fair Labor Standards Act (FLSA) Final Ruling

Q. What is the Fair Labor Standards Act (FLSA) final overtime rule?

The Department of Labor's final overtime rule updates overtime regulations contained in the Fair Labor Standards Act (FLSA). The final rule was announced on September 24, 2019 in the Federal Register. Please visit the Department of Labor's [website](https://www.dol.gov/agencies/whd/overtime/2019/index) for additional information on the FLSA final overtime rule:
<https://www.dol.gov/agencies/whd/overtime/2019/index>.

Q: What has changed as a result of the change in the FLSA?

A: The Department of Labor's (DOL) final overtime rule updates the standard salary level required for the executive, academic administrative, administrative, computer and professional exemption to ensure that the Fair Labor Standards Act's (FLSA) intended overtime protections are fully implemented. The DOL's final FLSA ruling provides greater clarity for workers and employers, including for higher education institutions.

The final rule updates the standard salary level salary threshold under which most workers are entitled to overtime compensation. The updated base salary threshold will decrease from Clemson's current policy of \$47,476 for a full-year worker (\$913 a week) to \$35,568 for a full-year worker (\$684 a week). The reduced salary threshold goes into effect on January 1, 2020; however, Clemson University's effective date for those impacted will be December 15, 2019.

Q: What are the key updates of the final rule on FLSA, and how does it impact the University?

A: Two key updates are detailed by the final rule:

1. It sets the standard threshold salary level to \$35,568 annually (\$684 per week).
2. It sets the total annual compensation requirement for highly compensated employees (HCE) subject to a minimal duties test to the annual equivalent of the 90th percentile of full-time salaried workers nationally (\$107,432).

It is important to note that the "duties test," which is a critical factor in determining an employee's overtime exemption has not changed.

Q: If my salary is equal to \$35,568 or more and my position is currently nonexempt, will my FLSA status automatically become exempt?

A: Not necessarily. While the standard level salary threshold necessary to exempt an employee from overtime will be \$35,568 annually, the position's "duties test" remains a critical factor in determining an employee's overtime exemption.

Q: What measures are being taken by the University to ensure its compliance to the new FLSA ruling?

A: The Office of Human Resources (OHR) is analyzing positions that may be impacted by this ruling. OHR will coordinate all communication to the University's leadership, faculty and staff.

Q: How will affected employees be notified of their updated FLSA exempt status?

A: In early December 2019, employees moving from a nonexempt to exempt status will receive an email from the Office of Human Resources notifying them of this change as well as the December 15, 2019 effective date. The employee's supervisor will also receive the email.

Q: Can employees choose to remain nonexempt instead of moving to an exempt status?

A: No. The Office of Human Resources (OHR) is currently reviewing position descriptions to determine if positions meet the duties test to be classified as exempt from overtime. OHR will then review employee-level data for affected positions to ensure the employee meets the updated standard salary threshold. Employees meeting both the duties test and the updated standard salary threshold, who are paid on a salaried basis, will be moved to an FLSA status of exempt.

Q: What is the impact to employees moving from an FLSA status of nonexempt to exempt?

A: Effective December 15, 2019, employees moved from nonexempt to exempt will no longer be eligible for overtime compensation, and therefore, they will no longer be required to record hours worked in Kronos or via a paper time sheet.

Q: What is the effective date of FLSA status changes?

A: The effective date of the final rule is December 15, 2019. The updated standard salary level threshold (\$35,568 annually/\$684 per week) and Highly Compensated Employees total annual compensation requirement (\$107,432 per year) will be effective on that date.

Q: As a chair of a department, who do I reach out to for help?

A: The Office of Human Resources will work with you and other department leaders to ensure each department's full compliance with all laws, including the FLSA. Please review the information contained in these FAQs, and contact [Ask-HR](#) or call 864-656-2000 should you have questions.

Q: When did the DOL last revise its overtime regulations for professional workers?

A: 2004. That update set the standard salary level at \$455 per week (\$23,660 annually for a full-year worker).

Q: Why is Clemson’s current policy different than the DOL overtime regulations established in 2004?

A: In 2016, the DOL established new standard salary guidelines of \$47,476 annually/\$913 weekly to be effective December 1, 2016. Prior to the effective date, the DOL was challenged on this new standard salary and a federal court ruled that the new regulations were to be put on hold. Having conducted significant analysis, Clemson, among other employers, made the decision to implement the standard salary guidelines as proposed.

Q. How does the final rule compare to the current Clemson policy?

	Current Clemson Policy	Final Rule, Effective December 15, 2019
Salary Level	\$913 weekly/ \$47,476 annually	\$684 weekly/ \$35,568 annually
HCE Total Annual Compensation Level	\$134,004 annually	\$107,432 annually
Standard Duties Test	See WHD Fact Sheet #17A for a description of EAP duties.*	No changes to the standard duties test.

*Fact Sheet 17a - https://www.dol.gov/whd/overtime/fs17a_overview.htm

Q. How is overtime pay calculated?

A: Unless covered by an exemption, employees covered by the FLSA must receive overtime pay for all hours worked over 40 per week, at a rate of one and one-half times their regular rate of pay.

Q: I am moving from a nonexempt to an exempt status and currently report my time in Kronos. How will this change when my status is changed on December 15?

A: As an employee with an exempt status, you will no longer be required to enter your daily time into Kronos. You will, however, still be required to enter your leave requests into Kronos as you are currently doing.