The information presented in this HR Design Topic document has been created to provide our classified employees with answers to common questions posed during web chats and forums about the FLSA and its inclusion in the HR Design Strategic Plan.

Related questions from web chats and forums:

A. **What is the Fair Labor Standards Act?**

B. **Why is the Fair Labor Standards Act so important to HR Design?**

C. **What kinds of jobs are exempt and non-exempt? Why is the distinction so important to HR Design?**

D. **What category am I in?**

E. **Can I switch my FLSA category? Can the university change my FLSA category?**

F. **Will my overtime as a classified employee be affected by HR Design?**

**What is the Fair Labor Standards Act?**

The Fair Labor Standards Act (abbreviated FLSA and sometimes pronounced “flissa”) is a federal law that establishes labor standards for public and private sector employers. The law defines a standard work week, establishes a national minimum wage and establishes parameters for working minors. In addition, the law guarantees overtime for certain positions.

The FLSA provides a set of standards to determine which jobs are covered by the act (“non-exempt”) and which jobs are not covered (“exempt”). Non-exempt positions are considered hourly positions and must receive overtime pay or compensatory time for hours worked over 40 in a workweek. Exempt positions are considered salaried positions and do not normally receive additional compensation for overtime work. For more information on FLSA please refer to the US Department of Labor website at: [http://www.dol.gov/compliance/laws/comp-flsa.htm#.UJuWjFLyHhs](http://www.dol.gov/compliance/laws/comp-flsa.htm#.UJuWjFLyHhs)

All classified employees, both exempt and non-exempt use an official hourly rate for payroll calculation purposes only, per the State of Wisconsin. The US Department of Labor has determined that while an official hourly rate is used to calculate wages, it is not the determining factor as to whether or not an employee is considered or treated as an “hourly” employee (non-exempt) or “salaried” employee (exempt) (see [Wisconsin Human Resources Handbook Chap 504.020](#)).

**Why is the Fair Labor Standards Act so important to HR Design?**

The Fair Labor Standards Act (FLSA) has an important role in the HR Design Strategic Plan. The proposed plan recommends academic staff and university staff employee categories align with FLSA categories. That is, the academic staff employee category would include all positions that are exempt from FLSA (also known as “salaried” positions) and the university staff category would include all non-exempt (or “hourly” positions). The primary reason for doing this is to provide a clearer, more consistent way to categorize jobs. Right now, all academic staff jobs are considered exempt* while some classified staff jobs are exempt and others are non-exempt. Using FLSA as a guide means that jobs that require similar levels of judgment and responsibility will be put into similar employee categories.

*There are some Academic Staff jobs which are paid based on number of hours worked. These are exceptions for employees whose work is variable or unpredictable. For example, a research scientist who assists with a part of a project or a pharmacist who provides coverage on an as-needed basis.
What kinds of jobs are exempt and non-exempt? Why is the distinction so important to HR Design?

In general, non-exempt jobs are operational or technical/administrative support roles. Examples of current UW job titles that are non-exempt include custodian, animal research technician, university services program associate, and electrician. Exempt jobs include executive, administrative, and professional employees. Examples of current UW job titles that are considered exempt include academic department manager, accountant-journey, IS data services senior, and food service manager.

Notably, the proposed HR Design plan allows current classified exempt employees to choose whether to become university staff or academic staff. There is some additional information in the HR Design Strategic Plan (http://hrdesign.wisc.edu/wp-content/uploads/2012/09/120921HR_strategic_plaN11.pdf), and more details will be forthcoming, at http://hrdesign.wisc.edu/

What category am I in?

In order to determine whether your classified position is exempt or non-exempt, please go to http://www.ohr.wisc.edu/weblisting/ohr/FLSASstatusCheck.aspx to access the UW-Madison FLSA Status Check. You will need to enter your Employee Identification (Empl ID), which can be found on your Earnings Statement at the MyUW portal. (It’s not the number on your WisCard). If you have trouble locating your Empl ID, feel free to contact your supervisor or human resource office for assistance.

Can I switch my FLSA category? Can the University change my FLSA category?

Employees cannot choose whether they want to be exempt or non-exempt, and the university cannot change the exempt or non-exempt status of a job without conducting an extensive review of its duties and responsibilities based on FLSA rules. In the future as job duties and tasks change, it is possible that a job's FLSA status will change in order to be in compliance with the federal law. The process for evaluating jobs will be communicated to employees and managers before it begins.

Will my overtime as a classified employee be affected by HR Design?

Overtime for non-exempt (hourly jobs) will not be affected by HR Design. There is a recommendation in the HR Design Strategic Plan that overtime be eliminated for all classified exempt employees. This has drawn a lot of attention. The reason for eliminating overtime pay is the nature of exempt jobs as defined by FLSA. Exempt employees have a set of responsibilities and objectives they are expected to achieve, and their work effort should be primarily measured against these results, not the number of hours being worked to accomplish them.

The HR Design team recognizes that there are cases where additional pay is appropriate for exempt employees. Some examples include on-call pay or emergency pay. It was also recognized there are times when exempt employees must put in effort well beyond the usual expectations of their positions. The team is in the process of developing ways to compensate employees for these types of situations that could be used for all exempt employees, regardless of category. The use of this additional compensation would be subject to central university policy, the availability of resources, and the discretion of the college, school, or division.

Changes to compensation for exempt employees will require changes to policy and business processes. The HR Design Team is working on understanding the circumstances that might require special pay for exempt employees. A proposal for specific changes for will be available for campus review in the spring.