



2024 Changes to the Fair Labor Standards Act (FLSA) Frequently Asked Questions

GENERAL INFORMATION

What is the Fair Labor Standards Act?

The Fair Labor Standards Act (FLSA) is the United States' federal wage and hour law, administered by the US Department of Labor (DOL). Among other things, it establishes the federal minimum wage and sets overtime pay requirements for employees in the private and government sectors.

Under the FLSA, some employees are exempt from the wage and overtime provisions of the law, and some are non-exempt. The FLSA requires that all non-exempt workers be paid overtime (usually one-and-one-half times their regular rate of pay) for all hours worked over 40 in a workweek.

What is FSW's workweek?

The Florida SouthWestern State College administrative work week shall begin at 12:01 a.m. each Monday and end at 12:00 midnight each Sunday.

What is the difference between exempt and non-exempt employees under the FLSA?

***Exempt employees** are considered "salaried" and do not earn any overtime compensation for working over 40 hours in a workweek. They must also perform certain types of job duties to qualify as exempt.*

***Non-exempt employees** are considered "wage earning" and must earn overtime compensation for all hours worked more than 40 in a workweek (Monday - Sunday).*

What are the 2024 changes to the FLSA?

In April 2024, the Department of Labor (DOL) released changes to the FLSA that increased the minimum salary required for an employee to be exempt from overtime compensation under the "White Collar Exemptions" for executive, administrative, and professional employees, from \$35,568 annually to \$43,888 annually.

When will the FLSA changes go into effect?

*Beginning July 1, 2024, an employee must meet the following criteria to be classified as FLSA exempt under the "white collar exemption":
Perform primarily executive, administrative, or professional duties as defined under DOL regulations; AND earn at least \$43,888 annually.**

**A few types of employees may be classified as exempt without meeting the salary minimum, for example, faculty, teachers, and coaches.*

Does the term “non-exempt” mean “non-professional?”

No. The term “non-exempt” simply means that the employee is eligible for overtime payments. It is mandated by the federal government for payment purposes and does not reflect upon your status as a professional.

Who is affected?

If you are currently classified as an exempt employee, you may be subject to the new minimum salary threshold, which will be increasing with this executive order. If you are currently classified as a nonexempt employee, you will not be affected.

Some exempt employees at FSW who exceed the minimum salary of \$43,888 will also become non-exempt as a necessity to maintain consistency in the FSW pay grade structure and to our internal position management processes.

Are part-time employees affected?

Part-time employees will be affected if they are currently classified as exempt, but make less than the new salary threshold, \$48,333 annually based.

Are faculty members impacted?

Bona fide teachers are FLSA exempt, regardless of their annual/weekly salary, if their "primary duty is teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge in an educational establishment." Faculty and teaching positions qualify as FLSA exempt under this "teaching exemption" and will not be affected by the changes.

How is FSW responding to this change?

Human Resources in collaboration with College Administration developed an approach to these federal regulatory changes that comply with the law, while having the least negative impact on FSW employees.

Human Resources analyzed all College positions, evaluated impacted positions, and solicited feedback from Cabinet members to determine the best approach to compliance. The College has determined:

- *Exempt employees making less than the new FLSA salary threshold can expect to be reclassified as FLSA non-exempt. If an employee is reclassified to non-exempt, they will become eligible for overtime compensation (pre-approval of any overtime hours will be required) and will have new timekeeping requirements. The reclassified employee's pay, benefits, and leave accrual rates will not change. The College will notify these employees via email.*
- *Some exempt employees at FSW who exceed the minimum salary of \$43,888 will also become non-exempt as a necessity to maintain consistency in the FSW pay grade structure and to our internal position management processes.*

- *It is possible that some exempt employees who are making less than the new salary minimum may receive a salary increase and remain exempt. The College will notify these employees via letter.*
- *Current employees who are non-exempt will experience no changes because of the new FLSA regulations.*

Can I or my department opt out of FLSA changes if we want to manage things differently?

No. These changes are driven by changes to federal law that will apply to employees across the United States, not by FSW's policymakers or individual departments. The College has, and will continue to, consult with departments across campus on factors impacting FSW's response to these regulatory changes.

What does all this mean for me?

In some cases, employee classifications may change from FLSA exempt to non-exempt. If you are in a position that is reclassified from exempt to non-exempt, you will become eligible to earn overtime compensation if you work over 40 hours during a given workweek (Monday-Sunday). This may change the way you report your hours worked to document the time you are eligible for overtime compensation.

WAGES

My annual salary is above \$43,888 annually, why did my position change from exempt to non-exempt?

Even though your salary is above the new minimum threshold, others with your same position classification title are not above the new threshold. While the Fair Labor Standards Act does not specifically state an employer cannot have both exempt and non-exempt employees in the same classification/job title, FSW has made the decision to have all employees assigned to a pay grade 108 and below converted to non-exempt.

What happens when I receive a salary increase that raises my salary above \$43,888?

Each FSW position classification is defined as exempt or non-exempt. If there is a salary increase while in your current position classification, you will remain nonexempt, regardless if your salary then exceeds \$43,888. The reason for this is to maintain consistency in our established pay grade structure and position management processes.

Will all currently exempt employees under the new salary threshold receive a pay increase to remain exempt?

No, there is limited funding available to raise salaries to the expected new salary threshold. Keep in mind that per the April 2024, announcement there is another increase to the FLSA minimum salary effective January 1, 2025. At that time, the minimum will increase from \$43,888 to \$58,565.

The College is already proactively looking at salaries as evidenced by the implementation of a new wage and salary schedule in July of last year. While some adjustments may occur, those changes would be based on many factors so employees should not automatically expect a salary increase due to the legislation.

Are current non-exempt employees affected?

No, employees currently in non-exempt positions will not be affected.

What does it mean for an employee to be “reclassified to non-exempt” due to the FLSA changes?

Employees who must be reclassified to non-exempt will become eligible for overtime compensation and will have more detailed timekeeping requirements, but their job duties will not change because of the FLSA changes.

Their regular rate of pay, job duties, benefits (leave accrual rates, retirement, health insurance, etc.), and any union membership eligibility will not change. Non-exempt employees are still held to the high-performance standards already existing for their work.

Employees impacted by the FLSA changes will be notified of any changes made to their FLSA classification and provided training materials (or in-person training by Payroll Services, if needed) on any timekeeping process changes.

Can an employee choose to stay exempt from overtime?

No. This is a federal requirement and there could be penalties for FSW if we are not in compliance.

What should supervisors discuss with employees who are now in a non-exempt position?

Managers and supervisors may need to set new expectations and change department schedules and/or practices to manage hours worked within budgets. It is important to communicate any new department standards or business practices to newly non-exempt employees. These communications should include:

*Guidelines for using mobile devices outside of normal work hours to respond to calls or emails.
Adjustments to work schedules when work must occur outside of normal business hours. Communicating a clearly defined overtime approval process to your non-exempt employees can assist you in managing both time and budget resources. However, while non-exempt employees should seek pre-approval before working overtime, it is important to remember that all overtime must be paid, whether pre-approved or not.*

For non-exempt employees who respond to emails or calls outside of normal work hours on a “regular” basis, that time is counted as work time for overtime purposes. If a non-exempt employee responds to emails or calls briefly and “very occasionally,” then court cases have considered that to be “de-minimis” and therefore not counted for overtime purposes. However, supervisors have the discretion to establish overtime approval processes. As a rule, supervisors should not expect non-exempt employees to answer emails or phone calls outside of normal work hours.

How did FSW convert my yearly salary to an hourly rate?

The hourly rate of pay for full-time employees was converted using the following formula: Full-time annual salary effective July 1, 2024, divided by 1944 (243 duty days x 8 hours per day). For example, a full-time employee with an annual salary of \$43,000 would have a converted hourly rate of \$22.13.

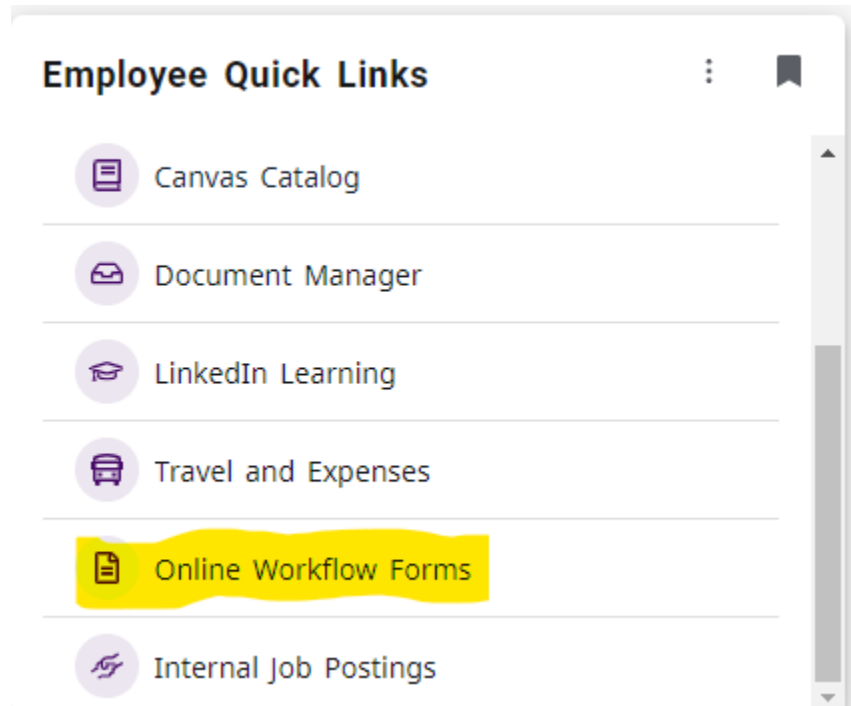
How is overtime calculated?

Overtime is paid at a rate of 1.5 times an employee’s regular hourly rate of pay for the work week for all time worked over 40 within a pay week. The computation of “40 hours worked” does not include paid time out of the workplace (e.g., sick leave, vacation time, etc.). So in the example above the overtime rate is calculated as \$22.13 x 1.5 = \$33.19.

RECORDING HOURS

How will non-exempt employees report exception time (vacation, sick, personal)?

Non-Exempt employees would submit a leave request through the Online Workflow Forms / Hourly Employee Leave Request located in MyFSW portal under Employee Quick Links or by clicking on https://webapps.fsw.edu/enterprise_apps/webforms/showform.php?form=leave_request.



After selecting Online Workflow Forms the following will appear. Then select Hourly Employee Leave Request.

Workflow Online Forms

Budget Development Online Forms

Information Technology Forms

Includes IT forms such as Application Access Request, IT Change Control, Request for Technology Quote, etc.

Financial Services Workflow Forms

Includes forms such as Check Request, Pcard Application, Pcard Increase Request, Property Transfer, etc.

Veterans Workflow

New Position/Reclassification Form

Employee Tuition Scholarship Request

Tuition Reimbursement

Hourly Employee Leave Request

FMLA Leave Request

Work Study Request

Employee Health Savings Account Contribution Form

Change of Grade Form

The following Leave Request Form will appear.

LEAVE REQUEST FORM

Employee Information


First Name: Last Name: FSW ID#:
Department: Date of Request: Is this a
new or existing request?:

Paid Leave

Select your leave below:

Leave Type	Pay Week	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	Total Hours
▼	<input type="text"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>	<input type="text" value="0"/>
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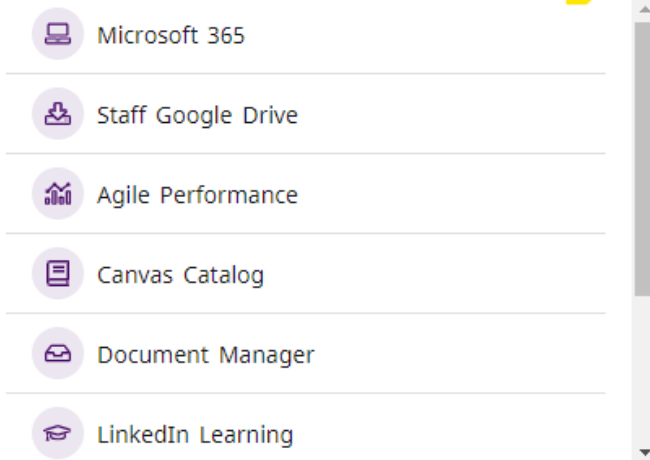
I don't have Employee Quick Links on my page. How do I add it?



From your portal page select
and click on the flag to the right.

Find the Employee Quick Links card

Employee Quick Links



You will see a message that says Card successfully added. This card will now appear on your main portal page.

How does lunchtime work for non-exempt employees?

Full-time nonexempt employees received a paid lunch period as part of their 40-hour work week.

Do I have to make up my time if I come in late or leave early?

This is up to the supervisor. Non-exempt employees are paid for actual time worked. If you are 2 hours late for your normal work schedule start time or leave early, you will report the hours you worked and will need to take leave time (vacation, sick, or personnel leave) depending on the circumstances of your late arrival or early departure. If you do not have leave time accrued, you would only report the hours worked and would not be paid for the 2 hours that you did not work.

Does time spent answering emails or using a mobile phone for work outside of normal hours count towards overtime for non-exempt employees?

For non-exempt employees who respond to emails or calls outside of normal work hours on a “regular” basis, that time is counted as work time for overtime purposes. If a non-exempt employee responds to emails or calls briefly and “very occasionally,” then court cases have considered that to be “de-minimis”

and therefore not counted for overtime purposes. However, supervisors have the discretion to establish overtime approval processes. As a rule, supervisors should not expect non-exempt employees to answer emails or phone calls outside of normal work hours.

OVERTIME

Does overtime require preapproval?

Yes. Employees are required to obtain supervisor approval before working overtime. Departments are responsible and must budget for the cost of overtime.

What happens if I don't have my overtime preapproved?

FSW must pay an employee for all time worked and pay overtime pay for hours worked in excess of 40 in a workweek. However, working unauthorized overtime may subject the employee to disciplinary action.

If employees work more than 8 hours in a day, is that considered overtime?

No. Per the regulations, overtime is only accrued when the total hours for the workweek (to include hours worked, sick, vacation, etc.) are more than 40 hours. Please see FSW [COP 0504-02 Overtime and Compensatory Time](#) for more information regarding overtime.

Can an employee work overtime whenever they choose?

No. According to FSW [COP 0504-02 Overtime and Compensatory Time](#), all overtime must be authorized by the supervisor. While overtime worked without supervisor approval must be paid, you should check with your supervisor to find out what the process is in your department for overtime approval. Repeatedly working overtime without the permission of the supervisor may lead to disciplinary action.

Can I “work off the clock” and not just claim any overtime?

No. When an employee works “off the clock,” it means that they are working hours that are not recorded and are unpaid. These hours would also be excluded from any overtime calculation. It is against Florida state and federal laws for an employee to work off the clock.

Can my supervisor require me to work overtime?

Yes. Under the Fair Labor Standards Act (FLSA), your supervisor can require you to work overtime.

COMP TIME (COMPENSATORY TIME)

Can I take any earned overtime as compensatory (Comp) time?

*The College does **NOT** have a compensatory time plan whereby employees can accrue compensatory time for use outside of the same pay period. Under no circumstance shall the supervisor or employee keep a separate “log” of uncompensated hours worked to be paid in the future as compensatory time.*

However, an employee is permitted to “flex” their hours within a pay week (Monday-Sunday). For example, an employee works a five-day workweek. On days 1 and 2 the employee works 8 hours each day. On the 3rd day of the week, the employee works a 10-hour day. That employee may, with their supervisors' approval, either come in late or leave early over the remaining 2 days of the pay week. For more information please refer to FSW [COP 0504-02 Overtime and Compensatory Time](#).

Can I work less time the following week if I work more than 40 hours in the preceding week?

No. FSW defines the work week as 12:00 a.m. Monday through 11:59 p.m. Sunday. Any amounts worked in excess of 40 during this time period must be paid according to the FLSA requirements. If you work 43 hours in the first week of the pay period you cannot adjust your work schedule to 37 hours the following week.

My supervisor has asked me to change my schedule to avoid working overtime. Can I choose to work overtime instead?

No. Your supervisor has the right to alter your work schedule so that you do not work more than 40 hours in a workweek.

I’m used to having some flexibility with my work schedule. Will that continue if I am now eligible for overtime?

Yes. In coordination with your supervisor, flex scheduling is allowed within the same workweek. For example, let’s say a typical schedule is eight hours a day (during the day), and your department needs you to work a special event for four (4) hours during the evening. The schedule may be changed, with the approval of your supervisor, to give you four (4) hours off at another time during the same workweek.

LEAVE TIME

How will my vacation and sick time accrual change for employees who will move to non-exempt status)?

Your annualized vacation and sick leave accrual amounts will remain the same.

With a change to non-exempt status, will an employee have to take a payout of their leave time accruals for vacation, sick or personal?

No. Your leave accruals will not be paid out to you. They will remain in your leave banks and can be utilized as needed and with the approval of your supervisor as applicable.

Will an employee who has moved to exempt status continue to mark their leave time in full-days?

No. A non-exempt employee can use their leave time in quarter-hour increments.

BENEFITS

Will benefits change for employees who will become eligible for overtime?

Benefits will not change for full-time non-exempt status employees as a result of this change. You don't need to take any actions related to your benefits.

How will insurance premiums/contributions be affected with the change to non-exempt status?

There will be no change to full-time non-exempt employees' insurance benefits. Your benefit contributions will still be the same amount as they were prior to any change in the FLSA classification.

MISCELLANEOUS

Is this a demotion?

No, it is not. *You play a key role at FSW. This is not a demotion and has no reflection on your value to the College. We value your contributions and hard work. This change is due to the updated FLSA rules and has no reflection whatsoever on your performance or contributions. Your job title and job duties will not change.*

As an exempt employee, I also do adjunct teaching for the College. Am I able to continue doing adjunct work?

No. Unfortunately, when the majority of the work an employee performs is in a non-exempt status they become eligible for overtime for work performed in an exempt status.

What about the second part of the FLSA change that happens as of January 1, 2025. The minimum salary for exempt status will go up to \$58,656. When will I be notified if I am affected by that change?

The College's primary focus has been the July 1, 2024 change. Once that change has been fully implemented, we will begin working on the January 1, 2025 change. As reported, there are court challenges still pending. The College will continue to work to ensure we are compliant with the January 1, 2025 change but monitor the outcome of pending litigation or regulation changes and make adjustments as needed. We will keep the College informed as we move forward.