



# Fair Labor Standards Act

MIDWESTERN STATE UNIVERSITY

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# What is the Fair Labor Standards Act? (FLSA)



The Fair Labor Standards Act (FLSA) was first passed in 1938 and is a federal law enforced by the Department of Labor (DOL).

- Establishes minimum wage & overtime standards
- Distinguishes between covered (non-exempt) and excluded (exempt) employees
- Establishes overtime threshold (40 hours per week)
- Specifies employer record-keeping requirements

- To be exempt from overtime/compensatory time, an employee must pass three tests:
  - **Job Duties Test:** employee performs work that primarily involves certain executive, administrative, or professional duties.
  - **Salary Basis Test:** employee receives a fixed salary each week that is not subject to reduction because of variations in the quality or quantity of work.
  - **Minimum Salary Test:** employee receives a minimum salary - \$35,568 currently

- On April 23, 2024, the U.S. Department of Labor issued new regulations addressing overtime provisions of the Fair Labor Standards Act (FLSA).
  - To hold exempt status the salary threshold increases to **\$43,888 as of 07/01/2024 and \$58,656 as of 01/01/2025.**
    - Does not apply to teachers, lawyers, doctors, outside sales professionals
  - There will be automatic updates to the salary threshold every three years (next being July 2027).

# How does this impact MSU?



- Midwestern State University is required to comply with the new FLSA guidelines.
- Several titles will be reclassified from an exempt status to a non-exempt status using the basis of the minimum salary level for the particular grade being less than \$43,888 in July, 2024 and less than \$58,656 in January, 2025. The reclassification of positions is necessary to comply with the DOL salary regulations.
- More employees will track work hours differently and be eligible for overtime/compensatory time.

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The Fair Labor Standards Act (FLSA) requires that employers classify positions as either exempt or nonexempt.

- ❖ **Exempt Positions** = Employees NOT ELIGIBLE for overtime
  - ❖ Exempt employees are expected to work the number of hours necessary to accomplish the goals of their exempt position.
  
- ❖ **Non-Exempt Positions** = Employees ELIGIBLE for overtime
  - ❖ Non-exempt employees are required to report all hours and fractional hours (in 15 minute increments) worked and not worked on their timesheet. Hours may not be kept “off the books” or outside of the official timesheet.

- If the actual hours worked in the work week (Sunday-Saturday) exceed forty (40) hours, this is considered federal overtime/federal compensatory time. These hours are to be credited at the rate of one and one-half times the hours worked.
- In most instances, federal overtime is accrued as compensatory time to be taken at a later date. These hours may be accrued or "banked" up to a maximum of 480 hours (=320hrs at time and one-half) for law enforcement personnel and a maximum of 240 hours (=160hrs at time and one-half) for all other non-exempt personnel.
- At the discretion of the university and based on budget availability, employees may be paid in cases where: the granting of time off is impractical, the employee terminates from the university, or the employee has reached the maximum balance permitted.
- [Government Code 659.015](#)

- When an employee has not physically worked more than forty (40) hours in the work week, but the *combined* total number of hours worked, paid leave taken, and/or holidays exceeds forty (40) hours, the employee may accrue state compensatory time which is straight time, hour for hour.
- State compensatory hours must be used during the twelve-month period following the week in which the hours were earned. Equivalent or "state" compensatory time may not be carried forward past the end of the twelve-month period in which it was earned and an employee may not be paid for unused time. Exemptions may be granted to allow payment only when taking of time off is disruptive to critical functions.
- [Government Code 659.015](#)



- It is the policy of MSU to schedule activities in such a manner that an employee should not be required to work in excess of 40 hours, except on sporadic occasions.
- An employee must have prior approval from his/her supervisor prior to working in excess of 40 hours.

A non-exempt employee must account for all hours worked, including business correspondence after hours. Non-exempt employees who respond to emails or texts outside of normal work hours are considered working.

- Email
- Text
- Telephone Conversations
- Activities

Each supervisor will organize and schedule its activities so that an employee should not be required to work in excess of the established 40 hour work week, except when occasional operating necessities demand otherwise.

It is recommended that during peak periods or when evening or weekend events are scheduled, departments implement a flexible work schedule. A flexible work schedule permits an employee to temporarily work a predetermined and approved variation of the standard work week while still accomplishing department goals.

- **Travel Time (within work day)**
  - Time spent by an employee in travel as part of their primary activity, such as travel from job site to job site during the workday, is work time and must be counted as hours worked.
- **Travel Time (one day assignment)**
  - Time spent traveling and returning from another city is work time, with the exception that the employer may deduct/not count time the employee would normally spend commuting to the regular work site.
- **Travel Time (overnight – conferences/events)**
  - Travel away from home is work time when it cuts across the employee's workday. The time is not only hours worked on regular working days during normal working hours but also during corresponding hours on nonworking days. Time spent in travel outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile is not considered worktime.

[Department of Labor Fact Sheet](#)

Under FLSA, employers must have an accurate record of all hours a non-exempt employee works. Falsifying time sheets by the employee or supervisor is a violation of federal and state law.

- Time entry currently through Time Clock Plus (TCP)

## **Human Resources Department**

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[Human Resources Webpage FLSA](#)

[Department of Labor Wage and Hour Division](#)

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