

FLSA Frequently Asked Questions

What is the Fair Labor Standards Act?

The Fair Labor Standards Act is a federal law which was established in 1938 as part of FDR's New Deal. It put into place several important worker protections, such as:

- Child labor laws
- 40 hour work week
- Minimum wage
- Overtime pay (and allowed exemptions)

Does the FLSA apply to me?

Yes, the FLSA applies to all employees of the university. There are different rules depending on whether you are designated as a nonexempt or exempt employee. The FLSA presumes that a position is nonexempt unless it meets the current requirements to be exempt. Find out more about being nonexempt and exempt by visiting the pages linked below:

[Guide to Being a Nonexempt Employee at Rice](#)

[Guide to Being an Exempt Employee at Rice](#)

What are the current requirements to be exempt?

In most cases (with some very limited exceptions), **all** three tests listed below must be met in order to be exempt from the overtime provisions of the FLSA. The term "tests" has been used in applying the regulations since 1938. These requirements are valid until December 1, 2016 when the new regulations go into effect.



Duties Test

Qualify under Administrative, Executive, Professional, Computer Professional



Salary Basis Test

Regularly receive a pre-determined salary each pay period, i.e. monthly, bi-weekly, etc.



Salary Level Test

Must make at least **\$455** per week (**\$23,660** per year).

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What is changing?

The minimum salary to be exempt is increasing two fold from \$455/week (\$23,660 per year) to \$913/week (just under \$48,000 per year). Effective December 1, 2016, all three of the following tests must be met to be exempt from the overtime provisions in the FLSA*.



Duties Test

Qualify under Administrative, Executive, Professional, Computer Professional



Salary Basis Test

Regularly receive a pre-determined salary each pay period, i.e. monthly, bi-weekly, etc.



Salary Level Test

Must make at least ~~\$455~~ **\$913** per week (~~\$23,660~~ **\$47,476** per year). **This minimum will be adjusted every three years based upon the 40th PCTL salary for full time workers in the lowest income region of the country.**

To comply with these changes, Rice has established a minimum salary for exempt staff of \$923/week (\$48,000 per year) effective November 1st. This minimum will apply in most situations with a few limited exceptions.

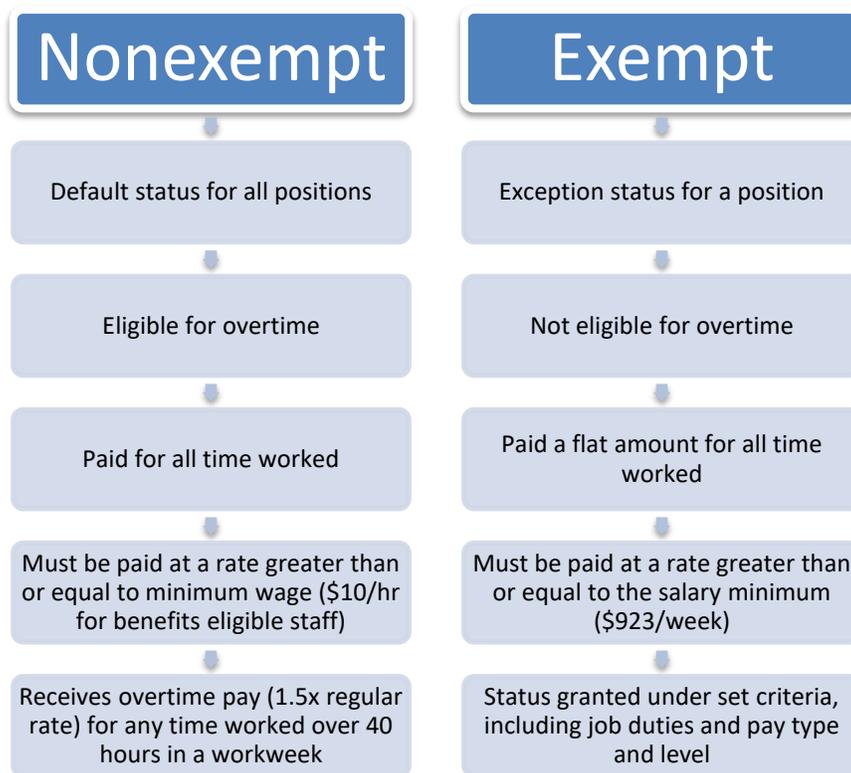
*Please note: there are some limited exceptions to the salary level test when it comes to employees who are engaged in instruction, academic administration and/or advising responsibilities.

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What is the difference between nonexempt and exempt employees?

The main difference between nonexempt and exempt employees has to do with how they are paid. Nonexempt employees are paid for all the time they work. In addition, nonexempt staff receive overtime for any time worked over 40 hours in a workweek.

Exempt employees are paid a flat amount (salary) per pay period and are expected to work until the job is done. They are not eligible for overtime if they work over 40 hours in a workweek. Here are some of the key differences for Rice employees who are exempt and nonexempt



How do these changes affect me?

These changes may not affect you at all. If you are currently an exempt (salaried) staff member, whether in a budgeted or temporary position, with a salary below \$923 per week (\$48,000 per year), you may be impacted by these changes.

If you are affected by these changes, you will be notified no later than November 1, 2016.

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Why are these changes being made?

President Obama issued an executive order to require the Department of Labor (DOL) to develop updated regulations which would increase the wages of US workers by making more people eligible for overtime. The way the DOL sought to make these changes was to increase the minimum salary for exemption. These changes result in one of the three outcomes for affected workers:

- Some workers who were previously exempt will now be nonexempt and eligible for overtime
- Some workers who were previously paid less than \$48K as an exempt employee will receive a pay increase to \$48K to remain exempt
- Some workers who were previously exempt will remain exempt at their current pay level.

I work 20 hours a week and make \$25,000 per year (\$480/week). Shouldn't I be exempt since my full time salary would be \$50,000 and exceeds the minimum salary requirement?

The Fair Labor Standards Act is based upon a weekly salary, not an annualized salary. The law does not allow pro-rating of pay for purposes of complying with the salary level test. No matter whether you work one hour a week or 100 hours per week, the minimum salary for exemption remains \$923/week at Rice.

I've been paid a salary since I started here. Now, my supervisor is telling me I am going to have to fill out timesheets. Does this mean I am getting a demotion?

This is not a demotion. Your status is being changed to nonexempt to comply with this change in regulations. Nonexempt and exempt employees are paid differently. Since nonexempt employees are paid for all time worked, it is essential that you record your hours worked to make sure we can pay you for that time. At Rice, we use an automated web time entry system and we will provide instructions on how to use it.

When will I know how these changes affect me?

Supervisors will begin notifying staff in October through the 1st of November.

If my status is changed to nonexempt, how will this impact my benefits?

Your benefits will not be impacted by this change. The only benefit that differs between nonexempt and exempt staff is the paid time off (PTO) accrual rates for nonexempt staff with less than 5 years of service at Rice (nonexempt staff earn 16 PTO days per year, exempt staff earn 21 PTO days per year). After five years of service, all benefits eligible staff earn paid time off at the same rate.

If you are currently an exempt staff member with less than 5 year of service at Rice and your status is changing to nonexempt due to these regulatory changes, your paid time off accrual rate will remain at 21 days per year (pro-rated for part time appointments) in order to keep you at the same level of accrual you were receiving before the regulations went into effect.

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When I was exempt, I was able to work 9/80 (meaning work 80 hours in 9 days over two workweeks). Can this practice continue?

A 9/80 schedule will result in overtime payments for one of the workweeks. Since this schedule will result in ongoing increased costs for the department, it is advisable to discuss this arrangement with your supervisor to determine if it can continue, and whether the department could accommodate an alternative work schedule.

Typical 9/80 work schedule that results in overtime in week 1:

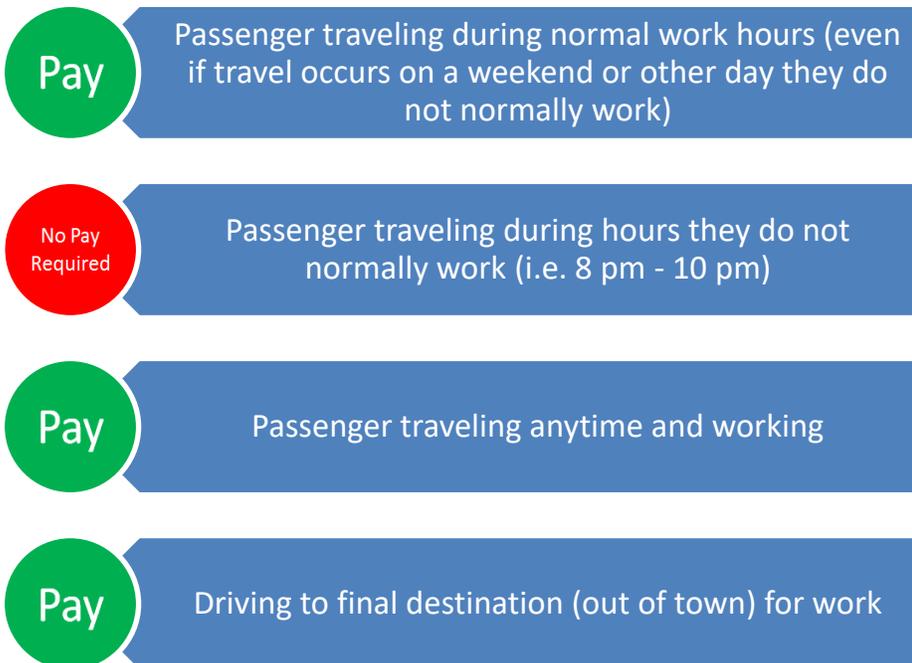
Week	Monday	Tuesday	Wednesday	Thursday	Friday	Total Hours Worked
Week 1	9	9	9	9	9	45
Week 2	9	9	9	8	0	35

Alternative 9/80 work schedule that does not result in overtime:

Week	Monday	Tuesday	Wednesday	Thursday	Friday	Total Hours Worked
Week 1	8	8	8	8	8	40
Week 2	10	10	10	10	0	40

I have some nonexempt staff that travel once or twice a year to conferences. They have typical work schedules, Monday through Friday 8 am to 5 pm with a one hour lunch. If they travel to the conference location on a weekend, do they have to be paid?

Nonexempt travel is a complex and tricky subject. We have included some basics in the chart below. You can visit our webpage on [nonexempt travel](#) for some additional information. If you have specific questions, please contact Compensation at compensation@rice.edu.



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Do these new regulations mean that if I am currently nonexempt with annual pay of \$48,000 or more that I can become exempt?

No, these new regulations do not affect the duties test, which is the foundation of the determination of whether a position is nonexempt or exempt. If a position is currently nonexempt, it is likely that the position does not meet the duties test as outlined by the regulations. To be exempt, a position must meet **all** three “tests” (as listed below).



Duties Test

Qualify under Administrative, Executive, Professional, Computer Professional



Salary Basis Test

Regularly receive a pre-determined salary each pay period, i.e. monthly, bi-weekly, etc.



Salary Level Test

Must make at least **\$913** per week (**\$47,476** per year). This minimum will be adjusted every three years based upon the 40th PCTL salary for full time workers in the lowest income region of the country.

Will my job duties change now that I am moving from exempt to nonexempt?

In most cases the primary functions of job will not change. If your job generally required more than 40 hours of work in a workweek, it is possible that your supervisor may shift some of your work to other staff so that you are able to complete your job with a 40 hour workweek. In the event your job duties are impacted by this change, your supervisor will discuss this with you no later than November 1, 2016.

I used to be exempt and was able to work from home occasionally. Now that I am nonexempt, can I still work from home?

In general, nonexempt staff should be physically present for all hours of the workweek. If you had a work from home arrangement with your supervisor in the past, you should talk with your supervisor to find out if this arrangement can continue.

More questions? Email us at flsa@rice.edu your questions and we will respond to you within 48 business hours.