

FAIR LABOR STANDARDS ACT (FLSA)

Rev. June 2010

UNO GUIDELINES

Category 1. Student Status assumes "currently enrolled" 2. Employee Status assumes "position outside Collective Bargaining Unit "	UNO Appointment Details	EXEMPT	NON- EXEMPT	N/A	FLSA Applied
Undergrad Student	Student Worker			X	Student, not an employee – not subject to FLSA, no pay guidelines
Graduate Student GTA, GRA, GSW	Appointment directly related to student’s field of study and a requirement of a specific course.			X	Student, not an employee – not subject to FLSA, no pay guidelines
Graduate Student GTA, GRA, GSW	Primary Duty of Appointment meets DOL definition of teacher*	X			Qualifies for Teacher* Exception (under FLSA Professional Exemption), no pay guidelines
Graduate Student GTA, GRA	Graduate Assistantship	X			Qualifies for Teacher* Exception (under FLSA Professional Exemption), no pay guidelines
Graduate Student GTA, GRA	Second Appointment in addition to Graduate Assistantship	X			Second appointment must agree with payment type of first appointment, in this case, Salaried Exempt paid on a Monthly basis.
Graduate Student	Appointment is for a fee-based, one-time project, on a short-term basis		X		Fee-Based (One Time Project Type Work) May be paid monthly (lump-sum); must meet minimum wage guidelines when estimated hours worked on project are divided into lump-sum monthly payment
Employee	Appointment is for a fee-based, one-time project, on a short-term basis		X		Fee-Based (One Time Project Type Work) May be paid monthly (lump-sum); must meet minimum wage guidelines when estimated hours worked on project are divided into lump-sum monthly payment
Employee	Does not meet FLSA Salary Basis Test for Exempt Status position, i.e. less than \$455/per week; \$1971.66/per month; \$23,660/per year (minimum salary amounts; not to be prorated)		X		Non-Exempt Status Employee (paid hourly at \$7.25/per hour or above and subject to overtime pay rules)
Employee	Meets FLSA Salary Basis Test (above); but does <u>not</u> meet FLSA Duties Test for Exempt Status position, i.e. practices independent judgment in decision making, meets requirements of: Executive, Professional, or Administrative exemptions under FLSA (see pg 2)		X		Non-Exempt Status Employee (paid hourly at \$7.25/per hour or above and subject to overtime pay rules)
Employee	Meets BOTH the FLSA Salary Basis Test AND the Duties Test as noted above.	X			Exempt Status Employee (paid monthly at \$455/per week or above)

Note: Classification decisions in conflict with the FLSA guidelines as shown above require approval by the Sr. Vice Chancellor’s Office (James McCarty).

***Statute defining “Teacher” exception to FLSA under DOL Regs:**

The term “teacher” as defined in 29 C.F.R. §541.303(a) means “any employee with a primary duty of teaching, tutoring, instructing or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in an educational establishment by which the employee is employed.” Section 541.204(b) defines an educational establishment as including an institution of higher education.

FLSA – Exempt Status Salary Basis Test:

Most exemptions require that the employee be paid on a salary basis. That salary must be at least \$455 per week (\$23,660 a year) and—with some exceptions—must be paid whether the employee works the entire week or only part of the week. (Outside-sales employees and highly compensated employees—those earning \$100,000 plus—operate under slightly different rules.)

FLSA – Exempt Status Duties Basis Test:

Once you have met the salary test, look at the duties test and make sure exempt employees fit clearly into one (or more) of the following classifications:

- **Executive:** Primary duty is to manage the enterprise or a subdivision and direct the work of two or more employees. Has the authority to hire or fire, or has great influence in those types of decisions.
- **Administrative:** Primary duty is to perform office or nonmanual work relating to the management or general business operations of the employer or its customers and exercises discretion and independent judgment.
- **Learned Professional:** The employee performs work with advanced knowledge, usually of an intellectual nature, exercises discretion and judgment, and has advanced knowledge in science or learning customarily acquired by a prolonged course of specialized instruction.
- **Creative Professional:** Primary duty requires invention, imagination, originality or talent in a recognized field of artistic or creative endeavor and works in a field such as music, writing, acting or the graphic arts.