

FAIR LABOR STANDARDS ACT

Reviewed and approved by University Council October 8, 2009

1.0 PURPOSE

1.1 The Fair Labor Standards Act of 1938 (FLSA) is a federal statute which establishes requirements and regulations for minimum wage, overtime pay, compensatory time, child labor, equal pay, and record keeping. Overall responsibility for enforcing the FLSA is assigned to the U. S. Department of Labor, with specific authority for equal pay provision delegated to the Equal Employment Opportunity Commission.

1.2 This document states the university's policy pertaining to compliance with the FLSA.

2.0 POLICY

2.1 All faculty, staff and student employees of UHCL are covered by the FLSA, although specific provisions exempt certain classes of employees from its minimum wage and overtime pay/compensatory time requirements. The university adheres to provisions of the Act in the administration of salary, wages, and work hours for all employees. An employee's rights under the Act may not be waived.

2.2 Final authority for determining exemptions from the overtime provisions of the FLSA is delegated to the Executive Director of Human Resources and Affirmative Action, or designee. The Office of Human Resources is responsible for the day-to-day administration of this policy and for ensuring compliance with the Act. The Office of Human Resources is authorized to investigate specific situations to assure that employee work and pay practices are conducted in accordance with the law.

2.3 Nothing in this policy shall be used as the basis for discrimination against any individual or group.

3.0 POLICY PROVISIONS

3.1 Wage and salary administration. The UH System and UHCL are exempt from participation in the state's classified pay plan, along with all other state institutions of higher education. UHCL has developed classification and compensation plans for staff employees and these plans comply with the provisions of the FLSA. Classification and compensation plans which prescribe the salary range authorized for each position of employment are administered by the UHCL Office of Human Resources. All inquiries and requests for special exemptions or interpretations are to be submitted to the Executive Director of Human Resources and Affirmative Action. The President, Sr. Vice President/Provost, and the Deans are responsible for salary administration of faculty members and other teaching and research professionals.

3.2 Determination of exempt status of employees. Each employee's overtime pay and minimum wage coverage under the Act (exempt or non-exempt) is determined in accordance with the terms of the federal regulations cited herein. All UHCL job categories are determined to be "exempt" or "non-exempt" as defined by FLSA.

3.3 Equal pay for equal work. The Equal Pay Act, which was passed in 1963 as an amendment to the FLSA, applies to all UHCL employees. It prohibits gender-based wage differentials between persons employed in the same establishment in jobs that require equal skill, effort, and responsibility and which are performed under similar working conditions. The law permits differences based on factors other than sex such as bona fide seniority or merit systems or systems which reward productivity.

3.4 Overtime and compensatory time. Non-exempt employees are subject to the overtime provisions of the FLSA. Compensation for all hours worked in excess of 40 hours in the standard workweek shall be handled in accordance with the UHS Administrative Memorandum 02.B.02 and the UHCL policy and procedures on overtime and compensatory time. Exempt employees are not eligible to receive compensation for hours worked in excess of the 40 hours in the standard workweek.

3.5 Child labor provisions. UHCL adheres to all FLSA provisions in connection with child labor. Fourteen years of age is the minimum age for workers at UHCL in a non-hazardous job. The minor employee may only work if employment is outside of school hours and is for no more than 3 hours on a school day, 18 hours in a school week, 8 hours on a non-school day, with the additional condition that work may not begin before 7:00 a.m. nor end after 7:00 p.m., except from June 1 to Labor Day, when evening hours may be extended to 9:00 p.m. A minor's employment release, signed by the parent or legal guardian, is required before any minor child may be employed at UHCL. Employment of a minor is also subject to the requirements of the Immigration Reform and Control Act of 1996 (IRCA).

3.6 Minimum Wage. UHCL pays at least the minimum wage prescribed by the FLSA. It is the policy of the university to pay all workers, including student workers, no less than the federal minimum wage.

3.7 Posting of FLSA Notice. As a covered employer, UHCL is required to post notices pertaining to the applicability of the FLSA, including minimum wage and child labor.

3.8 Record keeping requirements. Records and reports associated with salary and wage payments required by federal and state law and by accounting systems of the UH System are incorporated in the automated HRMS system.

3.9 Penalties. The Secretary of Labor has delegated authority to representatives of the Wage and Hour Division of the U. S. Department of Labor to undertake inspections and investigations to determine employer compliance with the law. These representatives may enter UHCL's premises to inspect and transcribe records and interview employees to determine if violations have occurred. The U. S. Department of Labor will usually seek voluntary compliance if violations are discovered; however, if this method is unsuccessful, the Act provides remedies through the courts. An employee or group of employees may sue to recover withheld wages, liquidated damages, attorney's fees and court costs, or the U. S. Department of Labor may initiate the court action. The Act also prescribes criminal penalties for intentional violations, and permits injunctive measures to ensure future compliance.

Signature:
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