

MEMORANDUM OF ADMINISTRATIVE POLICY

SECTION: Human Resources

Number: 02.B.07

AREA: General

SUBJECT: FAIR LABOR STANDARDS ACT

I. PURPOSE

- 1.1. The [Fair Labor Standards Act of 1938 \(FLSA\)](#) is a federal statute which establishes minimum wage, overtime pay, compensatory time, child labor, equal pay, and recordkeeping requirements. Overall responsibility for enforcing the [FLSA](#) is assigned to the U.S. Department of Labor, with specific authority for the equal pay provision delegated to the Equal Employment Opportunity Commission.
- 1.2. The purpose of this administrative memorandum is to establish the University of Houston - Clear Lake policy pertaining to compliance with the [FLSA](#).

II. POLICY

- 2.1. All faculty, staff and student employees of the University are covered by the [FLSA](#), although specific provisions exempt certain classes of employees from its minimum wage and overtime pay/compensatory time requirements, and the University adheres to provisions of the Act in the administration of salary, wage and work hours for all employees. An employee's rights under the Act may not be waived.
- 2.2. The University human resources department is responsible for the day-to-day administration of this policy and for ensuring compliance with the Act. The university chief human resources officer, or designee, will have final authority for determining exemptions from overtime provisions of the [FLSA](#).
- 2.3. The policy of the University of Houston - Clear Lake will ensure equal opportunity in all its educational programs and activities, and all terms and conditions of employment without regard to age, race, color, disability, religion, national origin, veteran's status, genetic information, or sex (including pregnancy), except where such a distinction is required by law. Additionally, the University of Houston - Clear Lake prohibits discrimination in all aspects of employment and educational programs on the basis of sexual orientation, gender identity, or gender expression. For the UH System's Official Non-Discrimination Statement, see [SAM 01.D.05 – Equal Opportunity and Non-Discrimination Statement](#).

III. POLICY PROVISIONS

- 3.1. Salary and Wage Administration: The University is exempt, along with some other State institutions of higher education, from participation in the State's Classified Plan, and has developed classification and compensation plans to ensure compliance with [FLSA](#). Such classification and compensation plans which prescribe the salary range authorized for each position of employment shall be administered, maintained and published by the human resources department. The presidents, provosts, deans, and academic department heads are responsible for salary administration of faculty members and other teaching and research professionals.
- 3.2. Determination of Exemption 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 University job categories are determined as "exempt" or "non-exempt" as defined by [FLSA](#). This link contains the [FLSA](#) tests required to determine whether an employee's position should be in the Exempt category and therefore exempt from the [FLSA](#) overtime provisions. Specific administrative guidelines concerning compensation, work hours, etc. for each employee job category are set out elsewhere in this memorandum.
- 3.3. Equal Pay For Equal Work: [The Equal Pay Act](#), which in 1963 was passed as an amendment to the [Fair Labor Standards Act](#), applies to all employees of the University of Houston - Clear Lake. It prohibits wage differentials based on sex, between persons employed in the same establishment on 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 forty (40) hours in the standard workweek shall be handled in accordance with [SAM 02.B.02](#). Exempt employees are not eligible to receive compensation for hours worked in excess of the forty (40) hours in the standard workweek but may receive compensatory time off under certain circumstances (see [SAM 02.B.02](#)).
- 3.5. Child Labor Provisions: The University adheres to all [FLSA](#) provisions in connection with child labor. Fourteen years is the minimum age for workers at the University in a non-hazardous job. The minor employee may only work if employment is outside school hours and is for no more than three (3) hours on a school day, eighteen (18) hours in a school week, eight (8) hours on a non-school day, or 40 hours in a non-school week; 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.

- 3.6. Minimum Wage: The University is obligated to pay the federal minimum wage prescribed by [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: The University shall post, and keep posted, notices pertaining to the applicability of the [FLSA](#), including minimum wage and child labor.
- 3.8. Recordkeeping Requirements: Records and reports associated with salary and wage payments required by federal and State law and by accounting systems of the University are incorporated in the payroll/personnel system.
- 3.9. Penalties: The Secretary of Labor has delegated authority to representatives of the Wage and Hour Division of the Department of Labor to undertake inspections and investigations to determine employer compliance with the law. They may enter the employer's premises to inspect and transcribe records and interview employees to determine if violations have occurred. The 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 Department of Labor may initiate the court action. The Act also prescribes criminal penalties for intentional violations, and permits injunctive measure to ensure future compliance.

In the event an examination is initiated by Wage and Hour representatives, or the Equal Employment Opportunity Commission, department heads shall immediately be directed to the university chief human resources officer. The Act forbids discharge of or discrimination against any employee who files a complaint alleging noncompliance or who participates in legal proceedings under the law.

- 3.10. Administration: The university's chief human Resources Officer is responsible for administering and interpreting the [Fair Labor Standards Act](#) for the university. All inquiries, as well as requests for special exemptions or interpretations, are to be submitted to the university human resources office.

IV. REVIEW AND RESPONSIBILITY

Responsible Parties:	Executive Director Human Resources
Review:	Every 5 years

V. APPROVAL

Mark Denney *Mark Denney*
Vice President Administration and Finance

Dr. Ira Blake *Ira K. Blake*
President

Date: 07/09/2021

VI. REVISION LOG

Revision Number	Approval Date	Description of Changes
1	04/22/1999	Approved by Dr. Staples
2	10/08/2009	Reviewed and approved by University Council.
3	04/22/2019	Policy sunset
4	07/09/2021	UH SAM 02.B.07 policy Adopted and placed in UHCL Standard Template.

VII. REFERENCE

[Exemptions of Executive, Administrative and Professional Employees \(FLSA\)](#)

[SAM 02.B.02 – Overtime and Compensatory Time](#)