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Implications of FLSA Regulation Changes

**Why College and University
Leaders Should Take Note**

 Sibson Consulting

Managing the FLSA Changes is Strategic Priority for Institutions

Complying with the Fair Labor Standards Act is a significant issue for Higher Education

The new FLSA regulations raise the minimum salary threshold for nonexempt employees from \$23,660 per year to \$47,476 per year. This salary threshold will be automatically updated every three (3) years beginning on January 1, 2020. Certain executive, administrative, and professional employees making an amount under the new salary threshold may now be considered nonexempt under the FLSA and eligible for overtime. This change is significant, as many higher education positions fall below the new salary threshold and require hours above forty hours per week. Institutions have until December 1, 2016 to come into compliance with the new requirements

Impact to Higher Education

Higher education structures, roles, and cultures are unique. The changes to the FLSA pose numerous risks to colleges and universities, including long-term financial burdens. Some campuses are raising the salaries of positions to the new threshold to come into compliance, and some will be forced to reclassify roles that have traditionally been exempt from overtime requirements and absorb substantial overtime costs. Many campuses estimate the financial impact to come into compliance to be millions of dollars. Some larger institutions and state systems estimated potential costs over \$60 million annually.¹

Beyond the financial cost of coming into compliance by December 1, 2016, institutions are facing other long term impacts that will have implications for years to come. These include potential penalties and liability for improper classifications, salary equity and compression issues, and morale and culture implications. These challenges may make it difficult to maintain a competitive edge in recruiting and retaining top faculty and staff.

Where Campuses Are Most Vulnerable

Higher Education institutions have unique challenges and impacts

The new FLSA regulations have the potential to impact nearly all positions at a university. However, there are specific positions that have demonstrated the largest impact, including post-doctoral fellows, faculty at extension programs, athletics coaches, admissions counselors, and residence hall directors. For many colleges and universities these positions often fall below the new salary threshold, and frequently require travel and long hours above and beyond the normal workweek.

Institutions will need to identify and assess these key positions for job duties, rather than job titles alone, to determine if the individuals in these positions can appropriately be classified as exempt. For some campuses reclassifying these roles poses significantly increased salary or overtime costs. And we are working with our clients to come up with creative solutions to address these roles and lessen potential impact.

¹ Data taken from comments submitted to the DOL by CUPA-HR

In order to remain in compliance and consistent with best practices, institutions have some difficult decisions to make

In order to remain consistent within each job title, institutions will face tough decisions that may have significant financial burdens, such as moving a large number of individuals to non-exempt or tracking hours and paying overtime, or keeping an entire class exempt and increasing salaries in some cases.

Sibson recommends first assessing the job duties of each individual to determine if the position has the potential to be exempt under the FLSA. Then, institutions should calculate the cost to bring the individual into FLSA compliance at an exempt status and to also run several overtime scenarios to predict the potential costs for overtime for each of these positions at a non-exempt status.

CLASSIFICATION METHODOLOGY

1. Rule Definition	Determine classification “Rules” following a review of provide job descriptions to ensure consistency of classification application
2. Independent Review	Independently review each job description to determine type of classification, exemption status, and any relevant notes
3. Validation and Documentation	Combine results of independent reviews to determine areas of consistency, and to discuss inconsistent classification
4. Analysis and Summation	Review positions requiring additional institutional validation to determine those that <ul style="list-style-type: none">• Remain exempt with high certainty• Remain exempt with low certainty• Change to non-exempt with high certainty• Change to non-exempt with low certainty

Managing the Changes

Sibson recommends that institutions take a **comprehensive and holistic approach** for complying with the FLSA requirements. Aside from the financial implications, it is important for institutions to be prepared with impact analyses, communication plans, culture/morale strategies, and rollout/implementation tactics

Key priorities for FLSA Assessment should include:

- **Assessing and updating job descriptions** to accurately assess and reflect duties, and properly applying classification rules to individual employees
- **Establishing implementation plans** to ensure that the institution comes into compliance in an effective and efficient manner with the least amount of impact to employees, operations, and the culture
- **Establishing clear, easy-to-understand, timely, and empathetic communications** for various employee groups to share information, provide education on the changes, and address concerns
- **Becoming properly prepared** in the event that the institution is selected for a DOL FLSA audit
- **Preserving morale**, employee engagement, and effectively recruiting and retaining employees while remaining in compliance with the FLSA

STRATEGY DEVELOPMENT

Sibson has worked with institutions to assist with strategy development around:

- Approach for FLSA Classifications
- Specific/Functional Area Classifications
- Compliance Protections and Practices
- Timekeeping approaches and Processes
- Communication and Training
- Culture and Engagement
- Recruitment Practices
- Rollout and Implementation

For more information on FLSA Regulation changes, contact **Jennifer Donnelly**, Vice President, Human Capital jdonnelly@sibson.com