

Non-Status Jobs & the FLSA

The Fair Labor Standards Act

- ❑ Regulations first passed in 1938 and revised in 2004, were written to provide employees with various protections in the workplace, such as:
 - ❑ Minimum wage
 - ❑ Child labor laws
 - ❑ Overtime guaranteed after 40 hours worked in a week. The purpose of the recent revisions is to strengthen the overtime protection provisions.
- ❑ The FLSA's standard is that a job is hourly (non-exempt) unless the employer can prove that the job is "exempt" from the hourly standard

Impact of FLSA Changes

- ❑ These changes required USNH to review all exempt jobs and ensure they meet the new standards.
 - ❑ One major area of concern was non-status exempt jobs because many did not meet the minimum payment of \$455 per week.
 - ❑ To ensure compliance and avoid costly penalties, “trappings” have been developed for non-status (“complimentary”) EPAFs.

First: Is the Job Hourly or Salaried?

- According to the Department of Labor, to be considered salaried (exempt), a job must now meet all of these criteria:
 - Qualify as an executive, administrative, or professional exemption
 - Have a salary rate of at least \$23,660 annually (\$455 per week). **This amount cannot be pro-rated for percent-time appointments.**
 - Be paid on the basis of a pre-determined amount each pay period

Second: What is the Appropriate Category Among the Non-Status Appointment Categories?

□ Hourly

- Students: Student Hourly, College Work Study
- Beginning Skills Levels: Beginning Office Support Services, Farm/Forestry Work, Custodial/Grounds, Basic Vehicle/Bus Operator, Basic Food/Dining Service
- Intermediate Skills Levels: Intermediate Office Support, Supervisory Custodial/Grounds, Material Storage/Retrieval, Driver – Heavy Equipment, Athletic Event Assistant (no exp)
- Senior Skills Levels: Advanced Office Support Services, General Facility Maintenance/Repair, Athletic Event Assistant (experienced)
- Skilled Crafts: Special Facility Maint/Repair, Specialized Paraprofessional
- Public Safety Services
- Beginning Professional, Administrative & Technical Services
- Intermediate Professional, Administrative & Technical Services
- Senior Professional, Administrative & Technical Services
- Consultative Services
- Performing Arts

□ Salaried

- Senior Professional, Administrative & Technical Services
- Consultative Services
- Performing Arts

FYI – A Few Jobs Are Not Covered by the FLSA

- There are only a few very specific jobs that are not covered by the FLSA
 - 1) Teaching – this allows adjunct faculty to be paid by the course, rather than by the hour
 - 2) 4-H Camp Summer Services jobs – These jobs are not covered because the camp operates only in the summer
 - 3) Jobs related to student activities, such as stipends for serving as an officer in a student club or as an assistant in a residence hall. These jobs are considered part of a student’s educational experience and can only be filled by students.

- For Banner purposes, these jobs are coded as “exempt”

Last: Processing the EPAFs

- ❑ Ensure that specific job information/documentation is maintained for audit purposes
- ❑ Select the appropriate complimentary EPAF
- ❑ Use the FTE calculation sheets as needed
- ❑ Ensure the hourly or daily rate fits within the Extra Help Chart parameters

Purpose of Revisions to the Non-Status Extra Help Chart

- ❑ Provide updated range minimums and maximums for non-status jobs
- ❑ Increase the categories of non-status appointments as needed
- ❑ Ensure USNH's legal compliance with the Fair Labor Standards Act and NH State regulations