Fair Labor Standards Act (FLSA)
Frequently Asked Questions for Employees

1. What is the Fair Labor Standards Act (FLSA)?
The Fair Labor Standards Act (FLSA) of 1938 (29 USC § 201 et seq.) is the United States’ federal wage and hour law, administered by the US Department of Labor. Among other things, it establishes the minimum wage and overtime pay, affecting employees in the private and government sectors. Everyone is “covered” but some employees are exempt from FLSA regulations and some are nonexempt. The FLSA requires one-and-one-half times the regular rate of pay in Overtime or Compensatory time be paid for all hours worked over 40 in a workweek for nonexempt employees.

2. What does exempt or nonexempt mean?
**Exempt** employees are excluded from overtime payment. **Nonexempt** employees are subject to the payment of overtime.

Exemption is based on qualifying for all three of the following tests:

- **Salary Basis Test.** Employee must be paid on an annual salary basis; and
- **Minimum Salary Test.** Employees must be paid above a salary threshold amount that is currently $455 (changing to $913) per week, and
- **Duty and Discretion Tests.** Employee must qualify as an executive, administrator, professional, or computer professional.

3. What does the new Department of Labor (DOL) ruling change?
The Minimum Salary Threshold Test is changing. The new minimum salary threshold, above which an employee can be designated as exempt from overtime requirements, will be **$913 a week** or $47,476 per year. The changes were announced on May 18, 2016 and will be effective December 1, 2016.

4. Who will the rule change affect?
If an employee’s rate of pay is below the new minimum salary level (at least $913 per week), that employee (unless he or she qualifies for one of the exceptions listed below) must be nonexempt. Employees whose pay is below the threshold and who are designated as nonexempt will have to account for
their hours on an hourly basis. Postdoctoral Research Fellows are affected by the rule change.

5. Who is excluded from these changes?
Faculty and instructional academic staff whose primary duties are teaching will remain exempt regardless of their salaries. Teachers, lawyers, and doctors qualify for an exemption as professionals. To be properly designated as a teacher, however, an employee must have actual instructional duties. Those who support teaching activities without actual teaching interaction will most likely be designated as nonexempt. Coaches are also excluded from the changes because of their instructional responsibilities.

6. How does this affect a part-time or less-than-1.0 FTE employee or an employee who is 9 or less than 12 months?
To be considered “exempt” the employee must be paid $913/week regardless of FTE. Pay for part-time appointments will not be pro-rated under the new regulations.

7. What happens if an employee chooses to defer their 9 month compensation over 12 months?
As long as the salary offered is equal to or greater than $913 per week during the actual months of the appointment, an employee electing to defer causing the weekly rate to drop below $913 per week will not be affected.

8. What is the University policy on overtime and compensatory time?
Michigan Technological University complies with the Fair Labor Standards Act of 1938 (as amended) (FLSA) in calculating and paying overtime and compensatory time off for non-exempt employees who are not subjected to a bargaining unit contract. For information on Michigan Tech’s Overtime and Compensatory Time policy, please refer to University Policy 2.6017 here http://www.admin.mtu.edu/admin/policy/pers/6017.htm

9. What happens if the University is not in compliance with the requirements of FLSA?
All employers must make good faith efforts to be in compliance. Employers who willfully fail to comply may be subject to substantial financial penalties.

This is a living document that will be updated as new answers become available. Please direct any questions to Human Resources Employment Services at 906-487-2280.

6/3/2016
Page 2