Department of Labor
Fair Labor Standards Act
Informational Session

Human Resources
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Catherine Burns, Manager of Staff Employment
Amy Mensch, Executive Assistant
Agenda for Discussion on the Fair Labor Standards Act (FLSA)

• Changes per the Department of Labor
• FAQ’s and Other Information
• Overtime, Compensatory Time, and Flexible Work Options
• Questions
Changes per the Department of Labor
The changes and what we know

- Exemption is based on qualifying for all three of the following:
  - Salary Basis – no change
  - Minimum Salary Test – minimum changed to $913/week
    - Current threshold $455/week
  - Duty and Discretion Test – no change
- $913/week, regardless of FTE or less-than-12 months
- Effective Date: December 1, 2016
- Who is not affected – coaches*, faculty, current hourly employees
- Automatic (estimated) updates posted 150 days prior to effective date
  - January 2020 – $51,167 ($984/week)
  - 2023 - $55,108 ($1,060/week)
  - 2026 - $59,351 ($1,142/week)

*Coaches are exempt if the primary responsibility of the position is coaching/instruction.
FAQ and Other Information

- Vacation
- Travel Time
- On-Call Compensation
- Off Hours Worked
- Shift Differential
- Longevity
Current Vacation Accrual Schedules

Exempt (36 day maximum accrual)
• 24 days per year (7.4 hrs/pay period)

Non-Exempt (32 day maximum accrual)
• Years 1-5: 15 days (4.6 hrs/pay period)
• Years 6-9: 20 days (6.2 hrs/pay period)
• Years 10+: 24 days (7.4 hrs/pay period)

9/10 month and Fixed-Term employees receive 5 or 6 days of annual leave

Vacation accrual “grandfathered” for current employees and those who signed their offer letter prior to July 1, 2016.
Travel Time

• The law vs. Michigan Tech practice
  • Travel within normal work hours
  • Travel as the driver of a vehicle
  • Travel outside normal work hours
  • Calculating and reporting travel
Travel Time within Normal Work Hours

The law

• Any portion of authorized travel time that takes place within normal work hours (pre-defined, i.e. 8:00 a.m. to 5:00 p.m.) on any day of the week, including Saturday and Sunday, is treated as work hours.

• Travel time within normal work hours will be paid at the employee’s regular hourly rate and will be factored into overtime calculations.

Michigan Tech Practice

• Same as the law.
Travel Time as the Driver of an Automobile

The law

- All authorized travel time spent driving an automobile (as the driver, not as a passenger) is treated as work hours, regardless of whether the travel takes place within normal work hours or outside normal work hours. An employee will receive his or her regular hourly rate for all travel time spent as the driver of an automobile, and this time will be factored into overtime calculations.

- Travel as a passenger in an automobile is not automatically treated as work hours. Travel as a passenger in an automobile is treated the same as all other forms of travel, and compensation depends on whether the travel time takes place within normal work hours.

Michigan Tech Practice

- All authorized travel time spent driving an automobile (as the driver OR as a passenger) is treated as work hours, regardless of whether the travel takes place within normal work hours or outside normal work hours. An employee will receive his or her regular hourly rate for all travel time spent as the driver of an automobile, and this time will be factored into overtime calculations.
Travel Time Outside of Normal Work Hours

The law

• Any portion of authorized travel time (with the exception of driving time) that takes place outside of normal work hours is considered to be outside travel hours.

• When a nonexempt employee is required to travel as a passenger in an automobile, plane or any other mode of transportation outside of normal work hours, he or she will not be compensated.

Michigan Tech Practice

• Any portion of authorized travel time that takes place outside of normal work hours is considered to be compensable time.

• When a nonexempt employee is required to travel as a driver, passenger in an automobile, plane or any other mode of transportation outside of normal work hours, he or she will be compensated accordingly.
Calculating and Reporting Travel Time

The law

• Employees are responsible for accurately tracking, calculating and reporting travel time on their timesheets. Meal periods should be deducted from all travel time.

Michigan Tech Practice

• Employees are responsible for accurately tracking, calculating and reporting travel time on their timesheets. Meal periods during authorized travel time are counted.
On-Call & Off Hours Worked

• Pay for hours worked
• “De Minimis” time
  • “Too trivial or minor to merit consideration, especially in law.”
    • 5 mins/evening x 5 evenings = 25 mins
    • 25 mins/week x 52 weeks/year = 1300 mins
    • 21 hours, 40 mins is **NOT** a trivial amount of time

• Working “off hours” needs to be pre-approved by the supervisor
Shift Differential

Employees who commence work during the second or third shift shall be paid shift differential of 40 and 50 cents per hour respectively for hours worked in that period. Shift differential shall not be paid in addition to overtime pay when employees work extended shifts.

Shifts begin as follows:

- First shift--starts on or after 5:00 a.m., but before 12 noon
- Second Shift--starts on or after 12 noon, but before 8:00 p.m.
- Third Shift--starts on or after 8:00 p.m., but before 5:00 a.m.
Longevity

- Regular, non-exempt employees are eligible to receive longevity pay, which is based on the length of continuous, non-exempt status with the University. Longevity amounts will be added to your base rate of pay. Eligible employees who are actively employed or on an approved leave of absence as of their longevity date anniversary will receive longevity pay according to the following schedule. The differential longevity amounts will be added to your base rate of pay as you reach the years of service indicated.

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<th>Longevity Year</th>
<th>Hourly Rate Differential</th>
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Overtime, Compensatory Time, and Flexible Work Options
Overtime Policy

• The law requires payment of overtime at time-and-one-half for all hours worked in excess of 40 hours per week.

• Michigan Tech policy requires payment of overtime for all hours worked in excess of 8 hours per day and/or 40 hours per week.
Compensatory Time

• Michigan Tech policy allows for the use of compensatory time in lieu of overtime to be recorded at a rate of time-and-one-half for each overtime hour worked.

• Compensatory Time is now tracked via Banweb.
Flexible Work Options

• Flextime
• Compressed Workweek
• Flexplace/Telecommuting
Questions?

Thank you