

For Employees and Supervisors

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# FLSA Changes and Auburn University



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# What is the Fair Labor Standards Act?

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The Fair Labor Standards Act (FLSA) established minimum wage, overtime pay, recordkeeping, and youth employment standards. It affects full-time and part-time workers in the private sector and in Federal, State, and local governments.

The FLSA requires that employees whose jobs are designated as nonexempt keep accurate records of time worked, be paid at least minimum wage for all hours worked, and receive an overtime premium for all hours worked in excess of 40 in a designated workweek. At Auburn University, employees -- "student" and "non-student" -- whose positions are designated as "nonexempt" (not exempt from the obligations and requirements for the accurate recording of working time, right to a minimum wage and overtime pay provisions of the FLSA) are covered by the FLSA.



## Fair Labor Standards Act History

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The Fair Labor Standards Act (FLSA) of 1938 originated in President Franklin Roosevelt's New Deal. It was a landmark piece of legislation that had a significant impact on the labor movement in the United States. The FLSA set nationwide standards for employees of organizations engaged in interstate commerce, operations of a certain size, and public agencies. Still active today, it affects millions of full- and part-time workers.

Under the Fair Labor Standards Act, the first minimum wage (25 cents per hour) was established. The workweek was limited to 44 hours per week, which was revised in 1940 to 40 hours per week. Standards were developed to keep records of hours worked and wages paid. These same standards allowed employers to keep track of overtime owed to employees who exceeded the standard workweek.

Perhaps most significantly, the Fair Labor Standards Act banned child labor. Children under age 14 were no longer legally allowed to work. Exceptions were made for the agricultural industry and some family businesses. Children under age 18 were restricted from "hazardous" jobs, including mining and some factory jobs. The ban on child labor greatly decreased the number of children harmed by bad working conditions.

A 1963 amendment to the FLSA called the Equal Pay Act prohibited differences in pay based on sex. Under this provision, women who were often paid wages lower than a man in the same position could now demand equal pay. The Equal Pay Act was an important step in leveling the often uneven work field in which women competed with men for the same jobs but had to settle for making less money.

More than 20 amendments have been made to the Fair Labor Standards Act. Most of these were made to increase the minimum wage, which has gone from 25 cents in 1938 to \$7.25 today. Enforcement of FLSA standards is handled by the U.S. Department of Labor's Employment Standards Administration, Wage-Hour Division. The Equal Pay Act is an exception; its enforcement was transferred to the Equal Employment Opportunity Commission in 1979.

**-Gale Encyclopedia of United States Economic History**





# FLSA Ruling

On Sept. 24, 2019, the U.S. Department of Labor (DOL) announced a change to the Final Overtime Rule under the Fair Labor Standards Act (FLSA).

Because of this change, approximately 40 Auburn University employees in positions currently designated as exempt from overtime will have their positions re-designated as nonexempt, or eligible for overtime pay.

The DOL is increasing the Minimum Salary Level threshold required for jobs to retain their designation as exempt from the FLSA regulations. Beginning on Jan. 1, 2020, the threshold will increase from \$23,660 per year, or \$455 per week, to \$35,568 per year, or \$684 per week. This change will make at least 1 million American workers eligible for overtime premium, including thousands of employees in higher education.

AU Human Resources (HR) has identified employees whose positions will be converted to nonexempt. For these employees, the following changes will occur on Jan. 1, 2020:

- They will receive overtime premium (either in the form of premium pay or in compensatory time off) of 1.5 times the hourly rate for all hours worked in excess of 40 hours in the designated workweek;
- They will be required to keep daily accurate recording of all hours worked, as per DOL guidelines. Most employees will do this through Kronos, the University's timekeeping system; and,
- They will be paid biweekly (26 times per year) rather than monthly (12 times per year).

However, employees and supervisors should also note the following:

- Leave accrual rates for impacted employees will not change; and,
- Parking privileges for the 2019-20 academic year will not change.

## An Important Message for Supervisors

When the U.S. Department of Labor announced planned changes to the FLSA in 2016 (which were later delayed until 2020), Auburn University hosted six forums for employees whose positions would have been impacted by the changes. Approximately 140 impacted employees attended one of these forums.

At these forums, employees asked dozens of questions about the FLSA change and how it would impact them and their work for the University. **In every workshop, employees told us that their supervisors and managers would play an integral role in successfully managing the day-to-day changes that will occur because of the FLSA change.**

We have created this packet to help you, as a supervisor, learn more about the change and to also assist you and your employees as you work together to discuss how best to address issues such as accurate timekeeping, business travel, overtime premium, and after-hours network access.

As a supervisor, we appreciate your willingness to assist your employee(s) during this important transition.





# Accurate Timekeeping

The complete and accurate recording of actual working and leave hours is not only an Auburn University policy but, more importantly, a federal law which ensures that employees are paid fairly for the work that they perform.

The FLSA covers “student” and “non-student” employees whose positions are designated as “nonexempt” (not exempt from the obligations and requirements for the accurate recording of working time, the right to a minimum wage and overtime pay.)

Auburn University employees whose positions are designated as nonexempt are required by the FLSA to maintain accurate daily records of work time — usually through Kronos, the electronic timekeeping system used at Auburn. They must record all actual hours worked as well as paid and unpaid absences. They are not allowed to voluntarily work “off the clock” without compensation, as this is a violation of federal law.

Time records, whether through Kronos or paper (only when Kronos isn’t an option), must reflect actual starting and stopping times of work as opposed to the established work schedule.

For example, if the work schedule is 7:45 a.m. to 4:45 p.m., but the employee worked from 8 a.m. to 11:30 a.m. and from 12 p.m. to 6 p.m., then these actual hours worked must be recorded.

It is also important to note that since this is a federal law requirement, no exception can be granted regarding this legal compliance requirement.

For more information, visit the TigerTime website or email [tigertime@auburn.edu](mailto:tigertime@auburn.edu).

## One example of what the workweek may look like...

Day	Hours Worked	Daily Total
Sunday	Off	0.0
Monday	7:45 a.m.-11:45 a.m and 12:45-4:45 p.m.	8.0
Tuesday	7:45 a.m.- 12 p.m. and 1 p.m.-5:45 p.m.	9.0
Wednesday	7:45 a.m.-12 p.m. and 1 p.m.-4:45 p.m.	8.0
Thursday	8:45 a.m.-11:45 a.m. and 12:45 p.m.-4:45 p.m.	7.0
Friday	7:45 a.m.-11:45 a.m. and 12:45 p.m.-4:45 p.m.	8.0
Saturday	Off	0.0

## Hours worked in the week: 40

### How to Clock In and Out

To clock in or out at a terminal, all you need to do is swipe your employee badge

### To clock in or out at a computer:

1. Visit [autime.auburn.edu](http://autime.auburn.edu)
2. Submit your AU user identification and password
3. Click “Record Timestamp”

### For employees with multiple jobs at the terminal

1. Press corresponding blue button for “Active Multiple Jobs”
2. Swipe AU Badge
3. Select List
4. Select a Job via the up/down arrows
5. Enter to select
6. To clock out, swipe your AU badge  
(If you do not select a job, your pay may be incorrect)

### For employees with multiple jobs at the computer

1. Visit [autime.auburn.edu](http://autime.auburn.edu)
2. Submit your AU user identification and password
3. Select a Job (if necessary)
4. Click “Record Timestamp”



## Payroll Scheduling

Auburn University will re-designate impacted positions on Jan. 1, 2020. Employees whose positions will be re-designated to nonexempt will begin to clock in on that day.

Since impacted employees will be paid biweekly rather than monthly, they will be paid for fewer hours per pay period (80 hours plus any overtime that is earned, compared to 173.33 hours per period), but will be paid more frequently (26 times per year rather than 12).

**It is important to note that an exemption status change will not reduce the amount of compensation that an employee receives in a year, based on a typical 40-hour workweek.** If they work more than 40 hours within the designated workweek (from 12:01 a.m. Sunday to midnight Saturday), they will receive overtime premium.

### Important Dates and Notes

Date	Payroll
Dec. 31, 2019	Final monthly paycheck for time worked between Dec. 1-31, 2019
Jan. 10, 2020	First biweekly paycheck for time worked between Jan. 1-4, 2020
Jan. 24, 2020	Second biweekly paycheck for time worked between Jan. 5-18, 2020
Feb. 7, 2020	Third biweekly paycheck for time worked between Jan. 19-Feb. 1, 2020

- Any employee who would like to see what their paycheck stub would look like after the re-designation should email their request to [payroll@auburn.edu](mailto:payroll@auburn.edu).
- These employees should also consider how the change in payroll scheduling will impact their schedule for paying bills with their respective bank or credit union. Employees who have a monthly payroll deduction for the Auburn University Credit Union should call 844-4120 for information on converting to a biweekly payroll deduction.



## After-Hours Digital Access

Many Auburn University employees use technology after normal working hours, often by checking email, responding to a text message, or answering a phone call. Employees whose positions are designated as nonexempt and their supervisors should note that the use of mobile and electronic devices after normally scheduled work hours needs to be considered as hours worked – time for which the employee must be compensated.

We encourage employees and supervisors to discuss this requirement to ensure that they have a clear understanding of the supervisor's expectations regarding the use of technology after normal working hours. Regardless, if an employee whose position is designated as nonexempt uses technology devices to access work email, etc., this time is considered to be either "incidental" or "principal" work activity and must be recorded.

More info

Additional materials are available on Auburn University's FLSA website:  
[www.auburn.edu/hr/flsa/index.html](http://www.auburn.edu/hr/flsa/index.html)



# Business Travel

If an employee whose position is designated as nonexempt travels on University business, he or she will need to keep track of his or her working hours to comply with FLSA guidelines:

- Any time spent while in **Travel Status** where the impacted employee is performing **Principal Activities** or related **Incidental Activities** is accounted for as **Working Travel Time**, whether or not on a **Regular Working Day**, and regardless of the time of day those activities are being performed.
- All time spent in **Travel Status** that coincides with **Regular Working Hours**, whether or not it occurs on a **Regular Working Day**, less the normal **Home to Work Travel Time**, is accounted for as **Working Travel Time**.
- Time spent while in **Travel Status** which does not coincide with **Regular Working Hours** will be accounted for according to the type of trip — **Day or Away**:

## Day

- As a driver or a passenger: All time spent less the normal **Home to Work Travel** is accounted for as **Working Travel Time**.

## Away

- As a driver: All time spent while driving, less the normal **Home to Work Travel**, is accounted for as **Working Travel Time**.
- As a passenger: Not all time spent as a passenger is considered **Working Travel Time**.

Links to forms that can help you determine what is considered Working Travel Time are available at [www.auburn.edu/hr/flsa/index.html](http://www.auburn.edu/hr/flsa/index.html):

- [Worksheet](#)
- [Graphic](#)
- [Decision Tree](#)

## Important Definitions

**Regular Working Days:** The employee's regularly scheduled working days; typically Monday through Friday, or, as otherwise practiced in the work unit.

**Regular Working Hours:** The employee's regularly scheduled working hours, typically 7:45 a.m. through 4:45 p.m., or, as otherwise practiced in the work unit.

**Non-Working Days:** Those days which are not Regular Working Days, typically Saturday and Sunday.

**Working Time:** Time which will be accounted for as those hours for which the employee will be compensated.

**Home to Work Travel:** Travel between an employee's home and the regular work location. This time is not compensable to the employee.

**Travel Status:** The process of being in-transit to and/or from a destination.

**Working Travel Time:** Time during Travel Status, which will be accounted for as those hours for which the employee will be compensated.

**Day Travel:** Time spent traveling by bus, train, airplane, helicopter, automobile, etc. to an assignment in another city/town and returning home during the same day.

**Away Travel:** Time spent traveling by bus, train, airplane, helicopter, automobile, etc. to an assignment in another city/town which keeps the employee from home overnight; returning home on a subsequent day.

**Normal Meal Time:** The prescribed time (at least 30 minutes) during the employee's Regular Working Hours which is allocated as Non-Working Time (unpaid) for meals.

**Principal Activity:** The primary duty(ies) or tasks of the employee's job for which the employee will be compensated.

**Incidental Activity:** Those activities performed by the employee which are related to the Principal Activity(ies) of the job regardless of when they occur.

**Deliberate Ignorance:** When an employer knows or has reason to believe that an employee is continuing work after Regular Work Hours, and/or Regular Work Days. It does not exempt the employer from liability to compensate the employee for those working hours, regardless of whether such time is recorded.





# Overtime Premium

In addition to a regular salary, employees whose positions are designated as nonexempt will receive “overtime” premium based on their regular rate for any time worked in excess of 40 hours during Auburn University’s designated workweek.

**The established university-wide standard work week begins at 12:01 a.m. Sunday and ends at midnight the following Saturday.** By law, if these employees have overtime hours during the workweek, they will receive either overtime premium pay of 1-1/2 times their hourly rate or compensatory time off earned at 1-1/2 times premium rate for all hours worked in excess of 40 in the designated workweek.

## Premium Pay

Impacted employees have the right to receive overtime premium pay. The FLSA change will impact their pay if they work in excess of 40 hours.

## Compensatory Time

As a public employer, University departments have the option of providing compensatory time off in lieu of the earned overtime premium pay. However, some departments may choose not to offer compensatory time, but instead, pay premium pay for all overtime hours worked. Compensatory time is also paid at 1-1/2 times the hourly rate for all hours worked in excess of 40 hours during the designated workweek.

If a department offers compensatory time but an employee would like to receive premium pay for overtime, he or she should request that in writing to his or her timekeeper or supervisor prior to the performance of work. **The employee has the right to elect to receive overtime premium pay, even if compensatory time off is offered. However, the employee cannot continuously switch back and forth between overtime premium pay and compensatory time off.**

## Example

If an employee's annual salary is \$31,200, or \$600 per week, but they work 42 hours in a designated workweek, they would either receive \$45 in premium pay (see below) or, if offered by the department and accepted by the employee, 3 hours of compensatory time (2 hours x 1 1/2 times hourly rate):

Hours worked	Pay rate	Pay amount
First 40 hours	\$15 per hour x 40	\$600
+2 OT hours	\$22.50 per hour x 2	\$45
= Pay for week		\$645

## ! IMPORTANT

The FLSA changes will not impact an employee's benefits. Employees whose positions are re-designated will be grandfathered at their current leave accrual rate and they will also retain their current parking privileges for the 2019-20 academic year.

In addition, the FLSA change will not change an employee's medical insurance deductions or impact the percentage that is deducted for retirement.

The U.S. Department of Labor (DOL) offers additional information about the changes on its website, [www.dol.gov](http://www.dol.gov). Published information includes:

- **The Overtime Rule:** The main page for DOL information regarding the overtime regulation changes
- **Fact Sheet #17S:** Higher Education Institutions and Overtime Pay Under the Fair Labor Standards Act

If you have questions, please contact your Human Resource Liaison or the following Human Resources staff members:

- **Rod Kelly**, Executive Director, Compensation and Classification, 844-1618, [rodkelly@auburn.edu](mailto:rodkelly@auburn.edu)
- **Patrick Johnston**, HR Communications Specialist III, 844-1604, [pvj0001@auburn.edu](mailto:pvj0001@auburn.edu)