

## Fair Labor Standards

**Original Implementation:** February 3, 2005

**Last Revision:** January 28, 2020

### Purpose

This policy affirms Stephen F. Austin State University's intent to comply with the Fair Labor Standards Act (FLSA) and related federal and state laws.

### Definitions

**Nonexempt Employees** - Nonexempt employees are paid only for actual hours worked unless they receive benefits under the university's leave policies.

**Exempt Employees** - Exempt employees are paid on a salary basis and, in general, must be paid their full salary for any week in which they perform work. Their pay may be reduced only under the circumstances described below.

### General

All faculty, staff, and student employees of SFA are covered by the FLSA, although certain classes of employees are exempt from its overtime pay and minimum wage requirements. An employee's rights under the FLSA may not be waived. No employee may agree, even voluntarily, to work in violation of the FLSA. SFA pays all employees, including student workers, at least the federal minimum wage prescribed by the FLSA.

### Determination of Exemption Status of Employees

Each employee's overtime pay and minimum wage coverage under the FLSA (exempt, nonexempt) must be determined on an individual basis in accordance with the terms of the federal regulations. The director of human resources should be consulted when questions arise concerning an employee's status under the FLSA.

Graduate students who are simultaneously performing research under grants and contracts, are teaching as their primary duty, and are fulfilling the requirements of an advanced degree are exempt from overtime pay and minimum wage requirements.

### Overtime

The FLSA and state law govern the handling of overtime work. See SFA policy Overtime and Compensatory Time (12.14) for more information.

## **Deductions to Pay for Exempt Employees**

Exempt employees are paid on a salary basis and, in general, must be paid their full salary for any week in which they perform work. Their pay may be reduced only in the following circumstances:

1. Employees who are absent from work at least one or more full days for sickness or disability will not be paid for that day unless they have accrued benefits under SFA's leave policy or disability policy. Their pay will not be reduced if they are absent for less than a full day because of sickness or disability.
2. Employees who take leave under the Family and Medical Leave Act will not be paid for that time unless they have accrued benefits under the university's leave policies. Their pay will be reduced by the hours missed even if it is less than a full day.
3. Employees who are absent from work for at least a full day for personal reasons other than sickness or disability will not be paid for that day unless they have accrued leave available. If an employee is absent for less than a full day for personal reasons, his or her pay will not be reduced.
4. Employees who are absent from work for jury duty, attendance as a witness at a trial or temporary military leave will have their pay reduced by the amount of payment they receive in the form of jury fees, witness fees, or military pay. Their pay will not be reduced by the number of hours or days they are absent from work unless they perform no work in a given week.
5. If an employee violates a safety rule of major significance, their pay may be reduced in an amount to be determined by the director of human resources as a penalty for that violation.
6. Employees may be suspended without pay for other types of workplace misconduct, but only in full-day increments. Their pay will be reduced in an amount that is proportionate to the number of days suspended. See the university's policy 11.4, Discipline and Discharge.
7. Employees who work less than 40 hours during their first or last week of employment will be paid a proportionate part of their full salary for the time actually worked.

## **Improper Deductions from Pay**

It is SFA's policy to comply with the salary basis requirements of the FLSA. Therefore, the university prohibits all supervisors from making improper deductions from salaries of exempt employees. SFA wants employees to be aware of this policy and that the university does not allow deductions that violate the FLSA.

## **Equal Pay for Equal Work under the FLSA**

SFA employees are covered by the Equal Pay Act, an amendment to the FLSA, that prohibits gender-based wage differentials between persons employed in the same location on jobs that require equal skill, effort, and responsibility and that are performed under similar working conditions. Jobs need only be substantially equal, not identical, for comparison purposes. The law permits differences in pay based on factors other than gender such as bona fide seniority or merit systems or systems that reward productivity.

## **Employment of Minors**

The FLSA prescribes at what age and in which types of occupations minors can be employed. Federal regulations also limit hours of work for certain age groups. A list of prohibited occupations and other restrictions on employment of minors is available from the director of human resources.

To protect SFA from an unwitting violation of the age restrictions, human resources must obtain and keep on file a Minor's Employment Release form (HR-200) if the person being employed is younger than 18 years of age. In addition, human resources must obtain and keep on file a Federal Certificate of Age issued by the U. S. Department of Labor (DOL), a state Certificate of Age issued by the Texas Workforce Commission or other proof of age acceptable to the director of human resources for any person offered employment when there is any reason to believe the person being employed is younger than 19 years of age.

## **Administration**

The director of human resources is responsible for administering and answering questions on the FLSA. Inquiries as well as requests for special exemptions should be submitted to the director of human resources.

The human resources office is responsible for posting, and keeping posted, notices pertaining to the applicability of the FLSA. These notices, which can be obtained from the DOL, are to be displayed in conspicuous places to facilitate observation by all employees.

The human resources office is also responsible for ensuring that all FLSA- and DOL-required records are maintained.

## **Appeal Process**

If an employee feels the university has violated any of the above regulations under the Fair Labor Standards Act the employee may, without prejudice or fear of retaliation, express his/her appeal to their supervisor or the director of human resources. Those regulations include the minimum wage provisions, determination of exemption status of an employee, overtime provisions, deductions to pay for exempt employees, improper deductions from pay, equal pay for equal work provision, and the employment of minors. The complaint will be investigated by human resources and they will render a decision. If the employee is not satisfied with that decision, they can appeal to the vice president for the area involved who shall obtain input from the general counsel before making a final decision.

If an investigation results in a determination that improper pay has been awarded, the university will rectify the under-awarded pay amounts through this appeal process. Each employee is assured freedom from interference, coercion, discrimination and reprisal in filing appeals.

**Cross Reference:** Fair Labor Standards Act, 29 U.S.C. § 201 et. seq.; Overtime and Compensatory Time (12.14); Discipline and Discharge (11.4)

**Responsible for Implementation:** Vice President for Finance and Administration

**Contact for Revision:** Director of Human Resources

**Forms:** None

**Board Committee Assignment:** Finance and Audit