

# Fair Labor Standards Act

## Fact Sheet



Office of Human Resources

This fact sheet provides general information concerning the application of the overtime pay provisions to general schedule (GS) and administratively determined (AD) positions based on the position classification.

### OVERVIEW

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The Fair Labor Standards Act or commonly known as FLSA, requires that most employees in the United States be paid at least the federal minimum wage for all hours worked and overtime pay at time and one-half the regular rate of pay for all hours worked over 40 hours in a workweek. However, the FLSA provides an exemption from both minimum wage and overtime pay for employees employed as bona fide executive, administration, and professional employees.

Every position is designated as either Non-exempt (covered) or Exempt (not covered) by the provisions of the FLSA and is recorded on the Notice of Personnel Action, Standard Form SF-50, Block 35 on the SF-50 and OF-8 (if applicable).

### NON-EXEMPT EMPLOYEES

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- A non-exempt employee must be paid for all hours worked in a workweek. In general, compensable hours worked include all time an employee is on duty or at a prescribed place of work and any time that an employee is suffered or permitted to work.
- Unless specifically exempted (see below), employees who work full-time, part-time, or intermittent tours of duty are eligible for overtime pay.
- Employees covered by the FLSA must receive overtime pay for all hours worked in excess of 8 hours in a day OR 40 in a workweek and they can choose overtime or compensatory time.
- Senior Executive Service (SES) and AD employees earning more than \$153,200 are not eligible for overtime pay or compensatory time.

### EXEMPT EMPLOYEES

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- Employee's primary duties of the position are executive, administrative or professional in nature. This is determined by the actual duties an employee performs and the way he/she is paid.
- No entitlement to overtime pay - management has right to compensate with compensatory time.

### EMPLOYEES UNDER ALTERNATIVE WORK SCHEDULES

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- Employees authorized to work flexible work schedules, and for whom credit hours are applicable, receive overtime pay only for excess hours which are not credit hours.
- Employees authorized to work compressed work schedules earn overtime only for work in excess of the scheduled tour of duty (i.e., over 8 hours if their scheduled day is an 8-hour day, 9 hours if it is a scheduled 9-hour day, etc.) or for time over 80 hours for the pay period.

If you have questions regarding the FLSA designation of your position, please contact your servicing human resources specialist.

#### References:

Federal Employees and the FLSA: <http://www.opm.gov/flsa/index.asp>

OPM Handbook on Flexible Tours: <http://www.opm.gov/oca/aws/html/flex.asp>

Department of Labor: <http://www.dol.gov/compliance/laws/comp-flsa.htm>