

FLSA :

is not an acronym for

Fairly Long Standing Agony

The FAIR LABOR STANDARDS ACT

Presented by: Jane Allen

Fall 2008

Objectives

■ Three Sessions

- Session I
 - Overview of FLSA
 - Hours Worked
- Session II
 - Overtime Pay
 - Compensatory Time
 - Exempt vs. Non-Exempt
 - Exemptions not used at UMKC
- Session III
 - Professional Exemption
 - Administrative Exemption
 - Executive Exemption

Session I

Overview

Fair Labor Standards Act

Four Main Provisions of FLSA

The Four Main Provisions of the Law:

1. Minimum Wage
2. Overtime Pay Requirements
3. Child Labor Law
4. Recordkeeping Requirements

The Fair Labor Standards Act

- Who is covered by or subject to the FLSA?
 - Almost every employee in the United States is covered by provisions of the FLSA.



EVERYONE AT UMKC IS COVERED.



Although all employees at UMKC are covered by the FLSA, the law allows certain employees to be exempt from provisions of the Act *based on the work they perform.*

Minimum Wage Requirements



Covered, non-exempt employees must be paid not less than the federal minimum wage for all hours worked.



\$6.55 per hour, effective July 24, 2008.

(This is less than \$6.65, which is the minimum wage established by the State of MO, so we use the higher rate of pay.)



\$7.25 per hour, effective July 24, 2009.

(This is greater than the minimum wage established by the State of MO. Pay plans and student pay will be reviewed for compliance in 2009.)

Overtime Pay Requirements

- Covered, non-exempt employees must receive one and one-half times the regular rate of pay for all hours worked over 40 in a work week.
- UM Policy HR-211 states that “Hours worked in a workweek will include all time off with pay, excluding compensatory time taken, paid out accrued vacation, and paid out compensatory time.”

Child Labor (Youth Employment)

- The federal youth employment provisions were enacted to ensure that when young people work, the work is safe and does not jeopardize their health, well-being or educational opportunities.
 - Anyone under the age of 18 years is covered.
 - Number of hours that youth can work are limited, especially during the school year.
 - Types of equipment that youth are allowed to use are limited.
- There are some limited exemptions to the rules, especially in Agriculture.

Recordkeeping Requirements

- Every covered employer must keep certain records for each non-exempt worker.
 - Identifying information (e.g., full name, address, zip code)
 - Hours worked
 - Wages earned
- Records retention
 - Payroll records, collective bargaining agreements – 3 yrs.
 - Time cards, work and time schedules, records of addition to and deductions from pay – 2 years
- Open for inspection
 - Records must be open for inspection by Wage & Hour representatives.

Hours Worked

- 1. What are “Hours Worked”?**
- 2. What is a Workweek?**

Hours Worked

- *Suffered, or permitted*



Work that isn't requested, but is suffered or permitted, is work time, and is compensable.



There is no such thing as an employee who volunteers to do work connected with his/her job.



Employees and employers do not have the right to waive any hours worked by an employee as unpaid or to waive overtime.

Hours Worked

- *Meal Periods:*

- Do not count as hours worked if:
 - The employee is relieved of duties for the purpose of eating a meal (30-minute standard)
- Do count as hours worked when it is a rest period of short duration (normally 5 – 20 minutes)



Do count as hours worked if the employee answers the phone, helps a student, or otherwise interrupts a 30-minute meal period to perform work.

- ✦ *Note: The FLSA does not require an employer to provide rest or meal breaks, paid or unpaid. However, it does require pay at time and one-half for time worked over 40 hours in a workweek.*

Hours Worked

- Training Time

- Time that employees spend in meetings, lectures, or training is considered hours worked and must be paid, unless:
 - Attendance is outside regular work hours
 - Attendance is voluntary
 - The course, lecture, or meeting is not job-related
 - The employee does not perform any productive work during attendance

Hours Worked

- Travel Time
 - Ordinary home-to-work travel is not work time.
 - Travel between job sites during the normal work day is work time.
 - Special rules apply to travel away from the employee's home community.

Hours Worked

Travel Time (away from home community)

- Travel that keeps an employee away from home overnight is travel time away from home, and is considered hours worked when it cuts across an employee's normal work day.
- If an employee is driving the car, it is considered hours worked except during bona fide meal breaks.
- If an employee prefers to drive back and forth each day from a conference, and the employer prefers the employee to stay, the commute can be considered a normal home-to-work commute and is not hours worked.
- When traveling, if an employee is waiting for a flight during normal work hours, it is considered hours worked.

Hours Worked

- Waiting Time is counted as hours worked when:
 - The employee is unable to use the time effectively for his or her own purposes, and
 - The time is controlled by the employer.
- Waiting Time is not counted as hours worked when:
 - The employee is completely relieved from duty, and
 - The time is long enough to enable the employee to use it effectively for his/her own purposes.

Hours Worked

- On-call time is counted as hours worked when:
 - Employee has to stay on the employer's premises, or
 - Employee has to stay so close to the employer's premises that he/she can't use that time effectively for his/her own purposes
- On-call time is not counted as hours worked when:
 - Employee is required to carry a pager
 - Employee is required to leave word at home or with the employer where he/she can be reached

Work Week

- A work week is 7 consecutive 24-hour periods (168 hours)
- Compliance is determined by the work week and each work week stands alone



Averaging workweeks over a pay period is not allowed.

End - Session I

- Questions?