FAIR LABOR STANDARDS ACT (FLSA)

PROPOSED UPDATES
HOW WE GOT HERE

- **June 30, 2015** – U.S. Department of Labor announced proposed update to regulations about FLSA’s minimum wage and overtime standards.

- **July 6, 2015** – Notice of Proposed Rulemaking published in Federal Register. Interested parties were invited to submit written comments on the proposed rule by September 4, 2015.

- **Mid-2016** – ETA for Final Rule and implementation
  - Historically, employers have had only **120 days** to comply with new rules. But, the compliance window has been as short as 60 days.
Certain criteria must be satisfied to qualify an employee as a white collar employee exempt from federal overtime pay requirements.

**CURRENTLY...**

- Employee is paid on salary basis
  - Salary must be more than $455/week, or $23,660 annually
  - Note: Teachers – including professors – are not required to meet this portion of test

**SALARY TEST**

**DUTIES TEST**

- Primary duties must be consistent with executive, professional or administrative positions as defined by the Dept. of Labor
PROPOSED UPDATES TO FLSA

1. Update regulations governing which executive, administrative, and professional employees (white collar workers) are entitled to the FLSA’s minimum wage and overtime pay protections.

2. Update salary level required for exemption to ensure FLSA’s intended overtime protections are fully implemented, and simplify identification of non-exempt employees.

3. Establish a mechanism for automatically updating levels going forward.
Dept. of Labor proposes to set standard salary level at the 40th percentile of weekly earnings for full-time salaried workers.

- Current standard is $455/week or $23,000/year
- 2016 level estimated to be about $970/week, or $50,440/year (113% increase over current)

Dept. of Labor also proposes automatically escalating minimum salary annually by attaching it to 40th percentile or by indexing the $970 number to the Consumer Price Index for All Urban Consumers (CPI-U).
IMPACT TO GEORGIA TECH

Georgia Tech is independently responsible for complying (with USG guidance).

- Potential impact of salary basis test
  - Approximately 900 employees (8-10% of current employee base)
  - Cost impact will depend upon Institute’s reaction and standards going forward

1. Convert to non-exempt and set expectations of no overtime going forward
2. Convert to non-exempt and allow ongoing overtime
3. Adjust base salaries to bring over the salary basis test limit
4. Some mix
IMPACT TO GEORGIA TECH

- Potential changes to **duties test**
  - Some job titles may need to be moved into non-exempt status independent of salary basis test.

- General impact of moving **Exempt to Non-exempt**
  - Employees will be eligible for overtime pay as hourly employees.
  - Hourly employees are required to track/report time and are paid bi-weekly.
  - May require work schedules be set.

- Implementation will move **quickly**
  - ETA is mid-2016, with potential for a 60-120 day compliance window.
AREAS & ROLES POTENTIALLY AFFECTED

The College and University Professional Association for Human Resources (CUPA-HR) lists these areas and roles as potentially impacted by FLSA rule changes:

- **Academic affairs** (librarians, advisors, counselors)
- **Student affairs** (residence hall managers, admissions counselors, financial aid counselors, student activities officers)
- **Institutional affairs** (human resources professionals and trainers)
- **Fiscal affairs** (accountants, head cashiers)
- **Auxiliary services** (textbook managers, ticket managers)
- **External affairs** (alumni relations and fundraising professionals)
- **Facilities**
- **Information Technology**
- **Research and clinical professionals** (including many with advanced degrees and those engaged in advanced training)
- **Post-doctoral positions**
- **Athletic affairs** (head coach, assistant coach, physical therapist, trainer)
- **Managers in food service, security, and building and grounds**
- **Community outreach/educational extension functions**
RECAP

- **Rule change expected final mid-2016**
  - Implementation window will be small (60-120 days)

- **Approx. 900 employees affected across all areas of Institute**

- **Roles will be measured against new salary and duties tests**
  - Standard salary level for 2016 will be $970/week or $50,440/year and could rise yearly
  - Duties will clarify difference between exempt and non-exempt roles

- **Non-exempt employees are hourly and eligible for overtime pay.**
  - Non-exempt employees are required to track/report time and are paid bi-weekly

- Questions?