Fair Labor Standards Act

close-up: 

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Two stated policy objectives (and many unstated ones)

1. "to spread employment by incentivizing employers to hire more employees rather than requiring existing employees to work longer hours, thereby reducing unemployment." NPRM p. 14

2. "reduce overwork and its detrimental effect on the health and well-being of workers."

what issues are the changes trying to solve?
How did these changes happen?
(it's pretty easy)

June 30, 2015 DOL issued a Notice of Proposed Rule Making and requested Comments
By September 4, 2015 DOL received 290,000 comments
May 18, 2016 the rules became final

Simply put, the Fair Labor Standards Act (FLSA) requires that most employees be paid:
• at least the federal minimum wage ($7.25) for all hours worked, and
• overtime premium of time and one-half the regular rate of pay for all hours worked over 40 hours in a workweek.
• public employers can do comp time up to 240 hours (more for cops)

The FLSA provides an exemption for both minimum wage and overtime pay for certain “white collar” workers

The regulations governing white collar exemptions have not been revised since 2004.
What is staying the same?

Three part test
- Salary basis
- Salary level
- Duties Test

Duties Test

Salary Basis Test
Fixed salary not subject to reduction because of quality or quantity of work

Executive
Management
Directs Jr. Hire/fire/promote

Administrative
Non-manual office work
Exercise discretion & independent judgment on matters of significance

Professional
Learned
Creative
Teaching

What is changing in the FLSA?
Salary Level Test
Currently the salary level test is $455/week or $23,660/year

After changes the salary test is $913/week or $47,476/year

This number adjusts up every year (so no one time fixes)

If you don't meet the new minimum salary you are not exempt, regardless of duties (unless you are a teacher)

Common concerns for all of us

- Academic advisors/counselors
- Admissions counselors
- Coaches
- Athletic Trainers
- Teacher exemption, faculty, and adjuncts
- Faculty with non-teaching assignments
- Graduate Teaching Assistants & Research Assistants
- Postdocs
- Student Workers and RAs
- Professional Residence Life Staff - Residence Hall Directors
- Administrative assistants (currently classified as exempt)
What do you do?

Analyze everyone making under $47,476 that is currently classified as exempt.

May want to bump up the number for analysis purposes in expectation of 2020.

If no $ reclassify as non-exempt. Start time sheets, explain OT, comp-time, and train what time is considered compensable (email after work etc.)