The Fair Labor Standards Act
Town Hall Meeting
October 18, 2016

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• Allyson R. Terpsma, Warner Norcross & Judd
• Amy Brimmer, Human Resources
Agenda

• FLSA compliance project update
• Overview of the Fair Labor Standards Act and WMU’s review process
• Decision making process
• Impact of decisions made
• Communication plan
• Questions and answers
The Fair Labor Standards Act

WMU Town Hall Meeting

October 18, 2016

Allyson R. Terpsma
Introduction

• Some of you may have questions such as:
  ❪ What is the difference between exempt (salaried) and nonexempt (hourly) jobs?
  ❪ How will the recently announced regulatory changes impact me?
Introduction

• To answer those questions, we will discuss:
  ✷ Basics of the FLSA
  ✷ FLSA Exemptions
  ✷ Recent Regulatory Changes to the FLSA
  ✷ WMU’s FLSA Review
Basics of the FLSA

• Fair Labor Standards Act of 1938
• DOL writes regulations to implement the FLSA
• The FLSA requires that employers pay nonexempt employees a minimum wage and overtime
  - Minimum wage: In Michigan, all nonexempt employees must be paid at least $8.50/hour
  - Overtime: All nonexempt employees must be paid 1.5x their regular rate of pay for hours worked over 40 in a workweek
FLSA Exemptions

• But many employees are exempt from these requirements

• Generally two tests determine whether a job is exempt
  - Primary duty
  - Salary
FLSA Exemptions

• Standard white-collar exemptions
  ✷ Executive
  ✷ Administrative
  ✷ Professional

• Education-specific exemptions
  ✷ Teachers, includes athletic coaches
  ✷ Academic Administrators
Recent Regulatory Changes to the FLSA

• Salary threshold for standard white-collar exemptions:
  - 2004: $23,660, or $455/week
  - 2016: $47,476, or $913/week
  - 2020: Automatic updates every three years

• Education-specific exemptions
  - Teachers: No salary threshold
  - Academic Administrators: Entrance salary for teachers
    - WMU: $42,187, or $812/week

• No salary threshold reduction for part-time employees
Recent Regulatory Changes

• Effective December 1, 2016
• Changes or delays are possible but unlikely
  ✷ Legislation
  ✷ Litigation
WMU’s FLSA Review

• WNJ had recently completed an FLSA review as part of WMU’s staff compensation project
• HR identified the jobs to be reviewed
  - Currently exempt
  - Salary less than new threshold
WMU’s FLSA Review

- Reviewed job content tools created by employees
  - Breakdown of time spent on various duties
- Discussed jobs with department leadership
- Reviewed guidance available
  - Regulations
  - DOL opinion letters
  - Court decisions
WMU’s FLSA Review

• Determined whether jobs satisfied primary duty tests for:
  - Standard white-collar exemptions
  - Education-specific exemptions

• Discussed WMU’s options with respect to compensation
  - Raise salaries
  - Change status to nonexempt (hourly)
WMU’s FLSA Review

• Employees with nonexempt (hourly) primary appointment and secondary teaching appointment will be:
  - Paid hourly for all hours worked
  - Paid overtime for all hours worked over 40 in a workweek

• WMU’s transparency
  - Town hall meeting
  - Upcoming wage-hour training sessions
    › Oct. 24, 10 a.m. and 1:30 p.m.
    › Oct. 25, 10 a.m. and 3 p.m.
    › Oct. 27, 10 a.m. and 1:30 p.m.
Thank You!
WMU’s Compliance Process

• **Objective:** To ensure all WMU employees are paid appropriately under the FLSA as amended by the 2016 Department of Labor Regulations, effective Dec. 1.

• **Guiding principles:**
  - Seek guidance from Warner Norcross & Judd.
  - Employees doing the same job (i.e. same job title) to have the same FLSA status, with exception of part-time employees.
  - Decisions to be based upon business need and budget impact.
  - For staff compensation system positions, decisions to be reviewed by Aon Hewitt.
Decision

1) Maintain job as exempt/salaried:
   - Increasing pay so that all employees with the same job title are paid at least:
     - $42,187 (academic administrative) or
     - $47,476

   OR

2) Convert job to nonexempt/hourly:
   - Overtime eligible
   - Hourly Rate = Existing Salary / (2080 hours * FTE)
   - Change in benefit package eligibility: + $0.43 / hour
Decision Making Process

• Business need and budget impact:
  • Cost of pay increases and any anticipated overtime costs to be funded by divisions.

• Job titles entirely within an executive division:
  • Decisions made by senior management of that division.

• Job titles across one or more executive divisions:
  • Decisions made collaboratively by vice presidents.

• Human Resources staff attended decision making meetings.
  • Ensuring consistency in process.
Unique Challenges

• Part-time positions (less than 40 hours per week)
  • Under FLSA changes, part-time positions must be held to full $42,187 or $47,476 salary threshold.
  • All but most highly paid part-time positions to be converted to nonexempt hourly.

• Grant funded positions
  • FLSA decisions driven by availability of grant funds.
  • Moving forward, grant proposals must budget exempt positions at or above FLSA salary threshold.
Decision Review - Aon Hewitt

- Staff Compensation System jobs only
  - Salary levels impacted – a review of that impact is necessary.
  - FLSA changes will impact pay in external market, but impact on specific job titles will be variable.
  - Recommends a thorough analysis in 1st quarter of 2017.
Compliance Decision Impact

- Total benefits-eligible employees: 2,850 (approx.)
- Total impacted employees: 219
  - Pay increase to maintain exempt/salaried status: 192
  - Job converted to nonexempt/hourly: 27
- Total budget impact (all funds, fringe loaded): $1,679,795
Effective Dates

• Nov. 28, 2016
  • Jobs converted to nonexempt/hourly.
  • First day of the workweek that includes Dec. 1.

• Dec. 1, 2016
  • Pay increases to maintain exempt/salaried status.
  • First day of the pay period.
Communication Plan

• Wednesday, October 19:
  • Impacted employees to be individually notified by divisional, college or department leadership.
  • If benefit package eligibility will change, an HR staff member will be present to explain details.
  • Letters to be mailed to impacted employees at their home address.

• Week of October 24 (see wmich.edu/hr/flsacompliance):
  • FLSA wage-hour training sessions.
  • Federal, state and University requirements for recording and paying “hours worked” for nonexempt employees.
Questions and Answers

- As a courtesy to those joining us remotely via video:
  - Please remain seated for the question and answer session.
  - Please hold your question until someone brings the microphone to you.