Frequently Asked Questions (FAQ):

What is FLSA exempt versus non-exempt status?
Employee eligibility for overtime pay is determined by regulations under the Fair Labor Standards Act (FLSA). Various tests of duties and salary threshold determine whether a position is considered “exempt” or “non-exempt,” which refers to whether the job is exempt from overtime pay or not. Employees in non-exempt positions must be paid for overtime worked.

Are there exceptions to the new salary threshold under the FLSA?
Yes. Instructional faculty (including lecturers), physicians and lawyers are not subject to the salary threshold test. In addition, academic advisors are subject to a different salary threshold requirement.

What is the impact of the new FLSA rule across UNR?
The new FLSA regulation has impacted 66 departments across campus. Effective December 2016, 110 administrative faculty positions will become non-exempt and will qualify for overtime pay (or compensatory time) if they work more than 40 hours per week.

What should I discuss with my employees who are becoming eligible for overtime?
Managers and supervisors may need to set new expectations and change department schedules or behaviors in order to manage hours worked within budgets. It is important to clearly communicate any new unit standards or business processes to newly non-exempt employees, especially if their duties will not be changing. Considerations include:

- Requirement to seek approval for overtime
- How to track and report overtime worked
- Adjustments to work schedules when work must occur outside of regular hours

Communicating a clearly defined overtime approval process to your non-exempt employees can assist you in managing both time and budget resources. However, while non-exempt employees should seek pre-approval before working overtime, it is important to remember that all overtime must be compensated.

Can I require overtime for non-exempt employees?
Yes. Supervisors can require overtime work when necessary and with pay. Whenever possible, you should give advance notice to employees.
Does an employee need to be paid for overtime if I did not approve it?
Yes. If overtime hours are worked by non-exempt employees, even if unapproved, they must be compensated. Therefore, it’s important to establish overtime rules and communicate them to everyone in your unit. The guidance for affected employees reiterates that they should seek approval before working any overtime and you can help your employees by establishing rules in your unit for seeking approval in advance and by identifying situations where discretion is needed.

Can I offer comp time (unpaid time off taken in a later workweek) instead of cash payment for overtime?
Yes. UNR recognizes “comp time” as the method of payment for overtime hours worked by administrative faculty. Comp time is earned at the rate of time and one-half and the usage of accrued comp time must be requested and approved in advance. Administrative faculty can’t carry a balance of more than 120 hours of comp time.

The employees in my unit are used to having flexibility in their work hours. Can this continue if some or all of them become non-exempt?
Yes. Flexible scheduling is allowed within the same workweek. For example, if an employee normally works 8 hours a day, and has a personal appointment on Monday that only allows him to work 6 hours, the supervisor and employee can agree that the employee will make up the 2 hours later in the same workweek. Another example would be if a typical schedule is 8 hours a day during the day, and the department needs an employee to work a special event for 4 hours during the evening. The schedule may be changed to give the employee 4 hours of time off at another time during the same workweek.

Where can I get more information?
Complete information on the new rule is available from the Department of Labor’s Wage and Hour Division. FLSA information and policies can be found at (please add website). Please contact tmc@unr.edu with any additional questions.