

University of Idaho

Division of Finance

debbiee@uidaho.edu

www.uidaho.edu/finance

TO: University of Idaho Faculty and Staff

FROM: Brian Foisy, Vice President for Finance
Wes Matthews, Executive Director, Human Resources

DATE: August 14, 2017

SUBJECT: Fair Labor Standards Act Update

This memo provides an update on the most recent developments from the Department of Labor regarding the Fair Labor Standards Act (FLSA) and the decision of the university to institute a locally determined salary threshold for exempt status.

The FLSA is the federal law that created the standard for overtime eligibility. It also created the standard by which employers could make positions exempt from overtime eligibility. The criteria for the exemption are based on the characteristics of the position (commonly referred to as the “duties test”) and a minimum salary that must be paid to employees in exempt positions (commonly referred to as the “salary test”).

Last year, the Department of Labor (DOL) announced an update to the salary test from \$455 per week to \$913 per week. Based on our established payroll calendar for the year, UI transitioned to the new test before the deadline of Dec. 1, 2016. In the week following our implementation, and just days before the deadline,

a federal district court granted a preliminary injunction blocking the new salary test from taking effect. In its ruling, the district court concluded that the DOL did not have the statutory authority to establish a salary test. Following the injunction, the DOL filed a notice of appeal.

The Fifth Circuit Court of Appeals is set to consider the DOL appeal in October. But under the Trump administration, the DOL has already abandoned the proposed standard of \$913 per week. Instead, the DOL will engage in a rulemaking process to determine what the proper salary level should be. However, the DOL continues to argue on appeal that it has the statutory authority to establish a salary test, contrary to the conclusion of the district court. We anticipate that no new salary test will be forthcoming until this legal challenge is resolved.

Throughout this process, we have adhered to the proposed standard of \$913 per week. But with DOL action to abandon the proposed standard, we will be introducing an institutional salary test that exceeds the current federal standard of \$455 per week. **Effective August 27, 2017, the salary test for exempt positions at UI will now be \$720 per week.** This generally equates to \$18 per hour or \$37,440 per year (full-time equivalency must be considered as well). Exempt positions must continue to meet the duties test. This standard will be reviewed annually for potential adjustments.

We will be reviewing the positions that became eligible for overtime pay last November. Based on a review of duties and the new institutional salary test, some of these positions may return to exempt status. Supervisors of affected employees will be contacted by Human Resources. Please direct questions or comments to the HR Office at 208-885-3638.
