Frequently Asked Questions (FAQs) about Classification under Fair Labor Standards Act (FLSA)

1. What is the Fair Labor Standards Act?

The Fair Labor Standards Act (FLSA) of 1938 is the United States federal wage and hour law, administered by the US Department of Labor. Among other things, it establishes the minimum wage and overtime pay, affecting employees in the private and government sectors.

Every employee is covered but some employees are exempt from FLSA regulations and some are non-exempt. The FLSA requires one and one-half times the regular rate of pay in overtime to be paid for all hours worked over 40 in a work week, for non-exempt employees.

2. What does it mean to be exempt or non-exempt?

Non-exempt employees (sometimes referred to as hourly employees) are required to be paid an overtime premium of time-and-one-half for actual time worked in excess of 40 hours per week under the FLSA.

Exempt employees are salaried employees who are required to fulfill the duties of their positions regardless of the number of hours worked. Determining whether an employee is exempt or non-exempt is based on qualifying for all three of the following tests:

- Salary Basis Test. Employee must be paid on salary basis; and,
- Minimum Salary Test. Employee must be paid above a salary threshold amount that is currently $913 per week or $47,476 annually; and,
- Duty and Discretion Tests. Employee must qualify as an executive, administrative, professional, computer or outside sales professional.

3. How is tracking hours worked different for an hourly non-exempt employee?

Non-exempt employees must account for all their time worked. Nonexempt employees are not to work during (unpaid) lunch breaks or when they are off the clock or at home. The only time when they can work outside their normal working hours is with explicit authorization from their supervisor. All time worked must be reported.

4. How is overtime calculated?

Overtime payment, at the rate of time and a half, must be paid for hours actually worked over 40 in a workweek, to non-exempt employees. For hours worked over 37.5 but up to 40, your regular hourly rate will be paid.

5. Does overtime have to be authorized by a supervisor prior to an employee working?

Yes. All overtime must be pre-approved by a supervisor, prior to an employee working beyond the regularly scheduled weekly hours of 37.5 or 40 as the case may be. Also, if an employee is authorized to work beyond 40 hours a week, any schedule changes within the workweek to offset the overtime hours or paying overtime compensation, are up to the supervisor’s discretion. All overtime and any alternative work arrangements must be approved in advance by the employee’s direct supervisor.

6. When are non-exempt staff paid?

Nonexempt staff are paid bi-weekly on Fridays. Please see the Bi-weekly Pay Calendar on NKU’s Payroll website, for specific dates. http://hr.nku.edu/payroll/calendars.html