

# SYSTEM REGULATIONS

## **31.01.02 Fair Labor Standards**

*December 4, 1997*

*Revised January 10, 2002*

*Revised February 28, 2005*

***Supplements System Policy 31.01***

### 1. GENERAL

- 1.1 System components will comply with the Fair Labor Standards Act (FLSA) and related federal and state laws. Related administrative procedures are detailed in the *HR Manual*.
- 1.2 All faculty, staff and student employees (except as set out in Section 1.3) of the System are covered by the FLSA, although certain classes of employees are exempt from its overtime pay and minimum wage requirements. An employee's rights under the FLSA may not be waived. No employee may agree, even voluntarily, to work in violation of the FLSA.
- 1.3 A graduate student who teaches is exempt from overtime pay and minimum wage requirements. A graduate student engaged in research in the course of obtaining an advanced degree under the supervision of a faculty member does not fall under the requirements of the FLSA, even though the student may receive a stipend for his or her services.

### 2. MINIMUM WAGE PROVISIONS

The System pays all employees, including student workers, at least the federal minimum wage prescribed by the FLSA.

### 3. DETERMINATION OF EXEMPTION STATUS OF EMPLOYEES

Each employee's overtime pay and minimum wage coverage under the FLSA (exempt, nonexempt or partially exempt) must be determined on an individual basis in accordance with the terms of federal regulations. When questions arise concerning an employee's status under the FLSA, advice of the relevant human resources office should be obtained.

### 4. OVERTIME

The FLSA and state law govern the handling of overtime work. See System Regulation *31.01.09 Overtime* for more information.

### 5. DEDUCTIONS TO PAY FOR EXEMPT EMPLOYEES

- 5.1 Subject to the following exceptions, an exempt employee will receive full salary for any week in which work is performed without regard to the days and number of hours

worked. In general, an employee need not be paid for any workweek in which the employee performs no work. The exceptions to these provisions are:

- (1) Deductions may be made when an employee is absent from work for one or more full days for personal reasons, other than sickness or disability or other circumstances for which leave with pay or release time is available.
- (2) Deductions may be made for absences of one or more full days because of sickness or disability (including workers' compensation accidents) if the deduction is made after the employee exhausts paid sick leave or workers' compensation benefits.
- (3) Deductions may be made for penalties imposed for infractions of significant safety rules relating to prevention of serious danger in the workplace or to other employees.
- (4) Deductions may be made for unpaid disciplinary suspensions of one or more full days imposed pursuant to System policy or regulation or component rule for infractions of workplace conduct rules.
- (5) The System is not required to pay the full weekly salary in the first and last weeks of employment if the employee does not work the full week.

5.2 Deductions may be made for absences of less than one day for personal reasons or due to sickness when accrued leave is not used because permission for its use has not been sought or has been denied, accrued sick leave and vacation have been exhausted, or the employee chooses to use leave without pay. Deductions from pay due to a budget-required furlough will not disqualify an employee from being paid on a salary basis except in the workweek in which the furlough occurs and for which the employee's pay is reduced.

5.3 The A&M System prohibits improper deductions from pay. If deductions are inadvertently made in contradiction to Department of Labor regulations, reimbursement will be made retroactively to the affected employee. An employee who believes an improper deduction has been made from his or her pay should notify his or her payroll office.

## 6. EQUAL PAY FOR EQUAL WORK UNDER THE FLSA

System employees are covered by the Equal Pay Act, an amendment to the FLSA, that prohibits gender-based wage differentials between persons employed in the same location on jobs that require equal skill, effort, and responsibility and that are performed under similar working conditions. Jobs need only be substantially equal, not identical, for comparison purposes. The law permits differences in pay based on factors other than gender such as bona fide seniority or merit systems or systems that reward productivity.

## 7. EMPLOYMENT OF MINORS

- 7.1 The FLSA prescribes at what age and in which types of occupations minors can be employed. Federal regulations also limit hours of work for certain age groups. A list of prohibited occupations and other restrictions on employment of minors is available from component human resources offices.
- 7.2 To protect the System from an unwitting violation of the age restrictions, the employing component must obtain and keep on file a Minor's Employment Release form (HR-200) if the person being employed is younger than 18 years. In addition, the employing System component must obtain and keep on file a Federal Certificate of Age issued by the U. S. Department of Labor, a state Certificate of Age issued by the Texas Workforce Commission or other proof of age acceptable to the component human resources officer for any person offered employment when there is any reason to believe the person being employed is younger than 19 years.

## 8. EXAMINATION BY DEPARTMENT OF LABOR REPRESENTATIVES

- 8.1 If an examination is initiated by Wage and Hour or Equal Employment Opportunity Commission representatives, the head of the department or comparable administrative unit being examined will immediately report the pertinent facts through normal channels to the appropriate Human Resources Officer and CEO (before any information is provided to the representatives). The component human resources office will notify the System Human Resources Office (SHRO) immediately so SHRO may provide counsel concerning federal regulations, assist in resolving charges of noncompliance or other findings, and communicate information from the examination System-wide.
- 8.2 The FLSA forbids discharge of or discrimination against employees who file complaints alleging noncompliance or who participate in legal proceedings under the law.

## 9. ADMINISTRATION

- 9.1 SHRO is responsible for administering and answering questions on the FLSA for all System components. Inquiries as well as requests for special exemptions should be submitted to that office through the appropriate human resources officer. Interpretation of FLSA legal issues should be directed to the System Office of General Counsel (OGC). Component human resources offices may also consult the Department of Labor or outside consultants for advice on FLSA matters, and any information received should be forwarded to SHRO and OGC for dissemination System-wide.
- 9.2 Each System component human resources office is responsible for posting, and keeping posted, notices pertaining to the applicability of the FLSA. These notices, which can be obtained from the Department of Labor, are to be displayed in conspicuous places to facilitate observation by all employees.

9.3 Component human resources offices are also responsible for ensuring that all FLSA- and DOL-required records are maintained.

\*\*\*\*\*

CONTACT OFFICE:           The System Human Resources Office