

# Fair Labor Standards Act

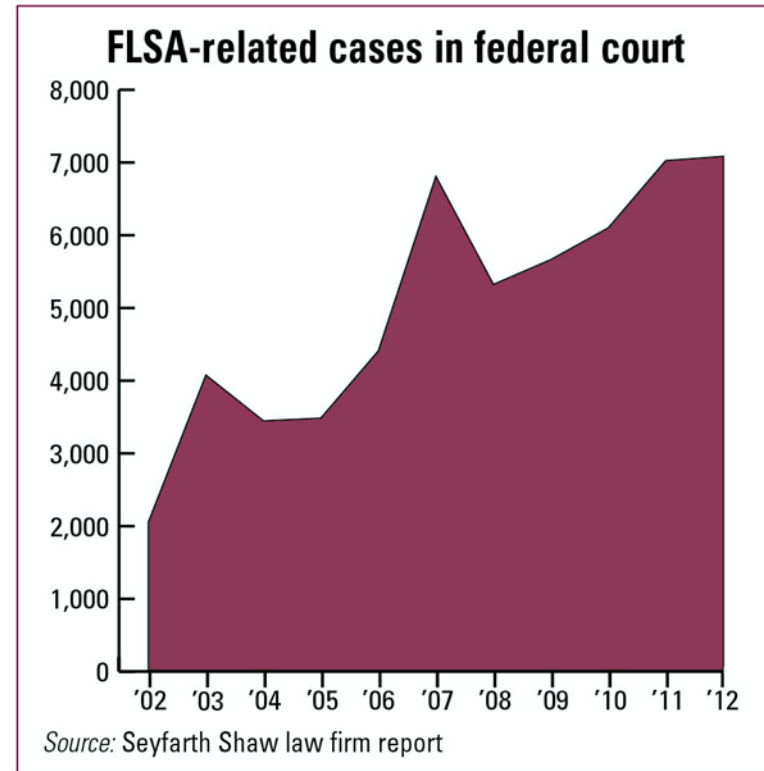


An Introduction

May 17, 2013

# Agenda

- Definitions
- Exemptions
- Questions
- Bonus



# Legal and Regulatory Framework

- School Policy
- University Policy
- City, State and Federal Rules
- Accrediting Bodies



## U.S Department of Labor (DOL)

- Federal agency charged with promoting the best interests of wage earners, job searchers, and retirees
- Laws administered by the DOL
  - Family and Medical Leave Act (FMLA)
  - Americans with Disabilities Act (ADA)
  - Occupational Safety and Health Act (OSHA)
  - Consolidated Omnibus Budget Reconciliation Act (COBRA)
  - Employment Retirement Income Security Act (ERISA)
  - Fair Labor Standards Act (FLSA)



## Definition

The Fair Labor Standards Act (FLSA) is a federal regulation that:

- Establishes the criteria for a job to be exempt or nonexempt
- Establishes the federal minimum wage required for all nonexempt jobs
- Guarantees overtime for nonexempt jobs for hours worked over 40 in one work week (Sunday 12:01am - Saturday 11:59pm)
- Governs the employment of minors

## FSLA regulates:

- Minimum wage
- Overtime pay
- Equal pay
- Record keeping
- Child labor standards



# Fair Labor Standards Act



- Federal Minimum Wage:
  - \$7.25/hour beginning July 24, 2009
- Overtime: 1 1/2 times the regular rate of pay for all hours over 40 hours in a work week

## “Non exempt” Employees

- Code 104, 106
- Paid hourly for all hours worked
- Subject to the federal minimum wage
- Subject to 1.5 x each hour worked >40 hours/week
- Overtime should always be approved by the Supervisor, preferably in advance
- Nonmanagerial duties



## “Exempt” Employees

- Code 100, 102, 103
- Paid at least \$455/week on a salary basis
- Ineligible for overtime pay
- Duties must be consistent with FLSA exempt criteria:
  - Administrative
  - Professional
  - Executive
  - Teaching

# Exempt from both Minimum Wage & Overtime

- Executive, administrative, and professional employees



## Meal Periods

At NYU, **administrative & professional, office/clerical** and **laboratory/technical** employees are typically provided with up to 60 minutes each day for their midday (lunch) break.

The schedule for lunch breaks is usually determined by individual departments.



# Exemptions from Minimum Wage and Overtime

Three tests for exemption:

1. Salary Level
2. Salary Basis
3. Job Duties



## Salary Level Test

- Employee receives \$455/week minimum or \$1971.66/month to be exempt
- Office or non-manual work



## Salary Basis Test



- Employee must be paid at least \$455/week or \$1971.66/month to be exempt
- Employee must regularly receive a predetermined amount of compensation each pay period

## Job Duties Test

- Three categories of jobs which may be exempt from overtime:
  1. Executive
  2. Administrative
  3. Professional



# 1. Executive Duties

- Primary duty is management of the department
- Customarily and regularly directs the work of two or more other employees
- Has the authority to hire or fire other employees or whose suggestions and recommendations as to hiring, firing, advancement, promotion or other change of status of other employees are given particular weight



## 2. Administrative Duties

- Primary duty is the performance of office or non-manual work directly related to the management or general business operations of the employer
- Primary duty includes the exercise of discretion and independent judgement with respect to matters of significance

### 3. Professional Duties

- Primary duty must be the performance of work requiring
  - Advance knowledge
  - In a field of science or learning
  - Customarily acquired by a prolonged course of specialized intellectual instruction
- Examples include doctors, lawyers, teachers, accountants

## Resources

- <http://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/human-resources.html>
- Roger Ho, Steinhardt HRO

# Questions?

