The U. S. Department of Labor recently released new overtime rules related to the Fair Labor Standards Act (FLSA) that will go into effect on August 23, 2004. After carefully reviewing the new regulations and assessing the impact on the University, the following changes are being made to bring the University into compliance with the new regulations.

1. **Non-Teaching Graduate Assistants** - The first change is that Non-Teaching Graduate Assistants will be non-exempt under the FLSA as of 8/23/04 because they earn less than the minimum salary test of $23,660 per year. The Non-Teaching Graduate Assistants will be converted to the biweekly payroll and paid on an hourly basis. They will be required to record their hours worked on a daily basis by punching in and out using the TimeCentre time keeping system. Their first pay date will be September 3, 2004.

   With changing the Non-Teaching Graduate Assistants to non-exempt, the responsibility for maintaining, editing, approving their timesheets and record retention will revert back to their respective departments. Along with this responsibility, it will be important that department heads and time keepers make sure non-resident students do not work over 20 hours per week while school is in session so as not to violate their F1 visa status. The departments will also need to make sure that they stay within budgeted dollars for graduate assistant pay. Graduate Assistant pay is budgeted at an average of 20 hours per week while school is in session. Some weeks are less when holidays are involved. Graduate Assistants observe the same holiday schedule as faculty. Graduate Assistants do not receive holiday pay. Under no circumstances should a graduate assistant be required, allowed, suffered or permitted to work over 40 hours per week, not even during a semester break. Supervisors will be held accountable to make sure this does not happen.

   Since August 23rd, falls in the middle of the biweekly pay period, this change will be effective on August 15, 2004, the beginning of the biweekly pay period. New Employee Orientation for Graduate Assistants will be held on August 16, 2004 at 9:00 a.m. in Room 133 of the University Center.
Teaching graduate assistants (Graduate Teaching Fellows and Graduate Teacher Scholars) will continue to be exempt because they are classroom teachers and are considered the instructor of record. Classroom teachers are exempt from the minimum wage and the minimum salary requirements under the FLSA. Graduate Teaching Fellows and Graduate Teacher Scholars will continue to be paid as salaried employees on the monthly payroll. Their first pay date will be September 15th.

Fee Waivers for Graduate Assistants and Graduate Teaching Fellows will continue to be taxable income. Due to the limited processing time for the first biweekly check, all fee waivers may not be posted to the payroll system for the first paycheck. Therefore, Non-Teaching Graduate Assistants need to be advised that their paycheck net amounts may fluctuate when the fee waiver is applied to paychecks and the appropriate withholding taxes applicable to the fee waiver are deducted. This could result in a significant difference in net pay for non-resident and international students who may receive as much as $3,000 to $4,000 per semester in fee waivers.

2. **Unclassified/Non-exempt Salaried**
   The first exemption test is a salary test to identify employees who earn less than $23,660 per year. Any unclassified staff who are part-time or full-time and who earn less than $23,660 will be categorized as non-exempt unless they are classroom teachers. These employees will be paid on an hourly basis for each hour worked in order to comply with the new regulations. This change will be effective with the beginning of the biweekly payroll on August 15, 2004.

   The second FLSA test is a duties test, which tests for the executive, administrative, professional and computer related exemptions. Job descriptions are being reviewed to determine which unclassified positions do not meet one of these exemptions. Those employees who are determined to not meet these exemptions will be categorized as non-exempt based on the duties test. They will be paid on an hourly basis in order to comply with the new regulations. This change will be effective with the beginning of the biweekly payroll on August 15, 2004. We have already identified some positions. Other positions may be added as job descriptions are reviewed and updated.

   The Human Resources Office will be contacting budget unit heads individually to advise them if they have any employees in this category. Budget unit heads should be aware that unclassified staff who are categorized as non-exempt are to be paid overtime at the time and one-half rate for hours worked over 40 per week. These employees may be compensated with compensatory leave in lieu of overtime if they are in a leave earning position. If they are not, they will have to be paid in cash. Non-exempt employees, who earn more than 240 hours of compensatory time in lieu of overtime, must be paid for any overtime worked after reaching the 240-hour cap. Compensatory leave earned in lieu of overtime will also have to be paid as terminal leave when the employee resigns, retires or is terminated. Southeastern and University of Louisiana System policies on compensatory time will be revised to reflect these changes.

3. **Student Workers** – Budget unit heads are reminded to make sure that they have birth certificates on file to verify age and work permits for any student workers hired who are 18 years old or under. Supervisors must be aware of federal and state child labor laws and their respective work restrictions if they hire anyone under 18 years old.
4. **Penalties:** Budget unit heads need to be aware of the penalties for non-compliance with the Fair Labor Standards Act (FLSA) which include the following:
   a. Payment of back wages going back 2 years, unless there is a willful violation, in which case they go back 3 years.
   b. Payment of damages equal to the amount of the back wages.
   c. The employee(s) may also file a private suit for attorney fees, and court costs in addition to the back pay and damages.
   d. Willful violations can be prosecuted criminally and the violator fined up to $10,000. A second violation can result in imprisonment.
   e. Willful violations are subject to civil money penalties of up to $1,000 for each violation.
   f. Child labor violations are subject to civil money penalties of up to $10,000 for each employee who is the subject of the violation.

5. **Record Keeping Requirements:** Wages required by FLSA are due on the regular payday for the pay period covered. The FLSA requires employers to keep the following records on non-exempt employees:
   - Employee's full name and social security number;
   - Address, including zip code;
   - Proof of birth date, if younger than 19;
   - Sex and occupation;
   - Time and day of week when the workweek begins;
   - Hours worked each day and total hours worked each workweek;
   - Basis on which employee's wages are paid;
   - Regular hourly pay rate;
   - Total daily or weekly straight-time earnings;
   - Total overtime earnings for the workweek;
   - All additions to or deductions from the employee's wages;
   - Total wages paid each pay period; and
   - Date of payment and the pay period covered by the payment.

6. **Hours worked include but are not limited to the following:**
   - Hours/time the employee is suffered or permitted to work.
   - Waiting time when the employee has reported to work and is waiting for further instructions.
   - Rest periods of less than 30 minutes.
   - Meal breaks of 30 minutes or more are excluded from work time.
   - Sleeping time when an employee is required to be on duty for 24 hours or more may be excluded provided the employee is provided adequate sleeping facilities. No deduction is permitted unless at least 5 hours of sleep occurs.
   - Lectures, Meetings, and Training – attendance at lectures, meetings, training and similar activities is considered work time if the employee is required to attend.
   - Overnight travel time when the employee is away from home is work time when it cuts across the employee's workday. This includes regular workdays and weekends. Time spent in travel away from home overnight after regular hours in a bus, plane, automobile or boat is not considered work time, unless the employee is driving.
• Time spent by an employee eating at their desk during their lunch break and answering the phone or assisting customers is work time. This time must be counted because the employee was not fully relieved of duties for at least 30 minutes.
• Non-Exempt employees are prohibited by the FLSA from volunteering to do the same type of work that they are paid to do in their job.

Questions related to these changes should be directed to the Jessie Roberts, Human Resources Director at jroberts@selu.edu or via extension 2001.