

CAREER TRACKS

FAQ: Exempt and Non-Exempt Statuses

1. How is a job status determined to be exempt or non-exempt?

Exemption status is determined by the Fair Labor Standards Act (FLSA), a federal law that provides employers with requirements regarding minimum wage, overtime pay, and recordkeeping standards for employees. In particular, the FLSA provides employers with criteria, called “tests for exemption,” to help them determine the exemption status of a job or category of jobs. The Compensation Unit has applied these tests for exemption to the new Career Tracks job standards as follows:

Exemption Type	Test for Exemption Criteria	Career Tracks Level Meeting Exemption Test
Administrative	Use of discretion, independence of action, level of judgment and decision-making	Professional 3, 4 and 5
Executive	Supervisory/managerial responsibilities	Supervisor 1-2 & Manager 1-4
Professional	Certain designated learned professions	N/A – based on job function rather than career level (applies to specific "learned professions" including lawyers, doctors, dentists, teachers, architects, clergy)

2. My new position is considered non-exempt. What does “non-exempt” mean?

Non-exempt positions are those that are covered by overtime pay requirements as determined by the Fair Labor Standards Act (FLSA). Effective with the implementation of the new Career Tracks job titles, if your job is non-exempt you will be paid overtime in accordance with the law. You should talk to your supervisor about how your change in exemption will impact your work. Also, keep in mind that all overtime must be preapproved by your supervisor.

3. How will I report my time now that I am non-exempt? Will my time reporting change?

FLSA regulations require non-exempt employees to track their hours worked, so they can be paid overtime for work in excess of 40 hours per week. To ensure that the university meets these regulations, non-exempt employees report their actual time worked each day. The bi-weekly pay cycle is designed specifically to track hours worked and overtime.

4. How will my hourly rate of pay be determined now that I am non-exempt?

Your hourly rate will be determined by dividing your annual salary by 2,088 (the number of working hours in a year). For example, if your annual salary is \$52,200 per year: $\$52,200 \div 2,088 = \25 per hour.

5. How will my pay cycle change if my new position is non-exempt?

As a non-exempt employee, you will be paid according to a biweekly pay cycle consisting of 10 working days. You will be paid every other Wednesday, giving you a total of 26 biweekly pay periods in a calendar year.

6. What should I do to prepare for the change?

It is important that you review your personal budget situation and determine your income needs based on the new biweekly pay schedule. In preparation for the conversion, we suggest that you take the following steps:

- Review your current tax withholding elections to make any necessary changes. Pay particular attention to additional tax withholding amounts.
- Request that creditors adjust your automatic withdrawal or bill-pay dates to align with your new pay schedule.
- **Please note:** The University does not provide advances against paychecks.

7. My new position is considered exempt. What does “exempt” mean?

Exempt employees perform jobs that meet one or more of the Fair Labor Standards Act (FLSA) tests for exemption and are therefore exempt from overtime regulations. In lieu of overtime, exempt employees have greater flexibility to take time off for needs such as medical appointments, parent/teacher conferences, etc. without a reduction in pay. They are paid for the job, not by the hour, even if it requires additional time worked to ensure the job is completed. Greater emphasis is placed on meeting the responsibilities assigned to the position rather than working the specific number of hours based on FTE appointment. However, it is expected that exempt employees fulfill their appointment percentage each month, consistent with our obligations as a public institution.

8. How will my monthly salary be determined now that I am exempt?

Your hourly rate will be converted to a monthly salary by multiplying your hourly rate by 174 hours (the average number of working hours in a month). For example, if your hourly rate is \$25/hour, your monthly salary will be \$4,350 ($\25×174).

9. My new position is considered exempt and therefore no longer eligible for overtime. What happens to my compensatory time on record?

In accordance with current policy (University of California – Policy PPSM-30: Compensation), employees transferring from non-exempt to exempt may use accrued compensatory time off until the date stated on the employee notification letter (approximately four months from effective date of conversion to Career Tracks). After that date, accrued compensatory time on the books will be paid out to the employee.

10. My new position is considered exempt and therefore no longer eligible for overtime. How has this been taken into account when mapping my position to the new Career Tracks classification system?

Overtime fluctuates based on departmental demands, and is not guaranteed. The Career Tracks team reviewed overtime history for impacted employees and will work with managers of affected employees to determine if a base salary adjustment is needed, where a significant impact on total compensation results.

11. My new position is considered exempt but my notification letter says my position is non-exempt. Why is that?

In addition to the “tests for exemption” discussed in Question 1, the FLSA requires that exempt positions earn above a salary threshold of \$684 per week. On November 5, 2019, the University of California Office of the President (UCOP) released a memorandum notifying staff that the UCs will use a higher salary threshold of \$913 per week for staff positions. This means that even though your classification has been designated as exempt (in accordance with the “tests for exemption), your salary does not meet the salary threshold, therefore, your position is non-exempt.