1. **Who do I email my questions to regarding FLSA?**
   [Answer] Please email questions to human-resources@marshall.edu.

2. **What is the updated salary threshold?**
   [Answer] On 1/1/25 the threshold will increase to $58,656. Moving forward, it is scheduled to increase every three years.

3. **What if my annual salary is under $58,656?**
   [Answer] Employees affected by these FLSA changes who make under the threshold will be converted to non-exempt.

4. **I have great staff who generally come to work on time, come to work regularly, and require little micromanagement. Unfortunately, I believe that this change is going to force me to micromanage my staff**.
   [Answer] The only thing that we are asking that you micromanage is the overtime. Please try to keep everything else the way that it has been in the past. We are going to have to get creative in our approach to these FLSA changes.

5. **What is flex time?**
   [Answer] Flex time is when an employee works additional hours in one work day and is allowed to take time off on another work day (in the same work week) without recording overtime hours. This is a way of adjusting an employee's hours per day to prevent the employee from exceeding 37.5 hours in any single work week. This might also be referred to as "rearrange time"; meaning that an employee may rearrange their work schedule to meet department demands while staying under 37.5 hours.

6. **Should I encourage flex-time for the situation where a late student visit might have required an unexpected/unplanned overtime of 15 or 30 minutes? In this situation, where prior approval was not received, the employee would not be allowed to "request" compensatory time or overtime pay. Is that correct?**
   [Answer] Flex-time can be used to manage fluctuations in the weekly 37.5 hour employee schedule. Compensatory/overtime must be scheduled and approved in advance. My suggestion is consider making scheduling adjustment. Maybe consider rotating staff members to include a person to stay "30" mins late every day. Maybe consider making the last appointment at 4:00pm. Think outside the box on how to make it work.

7. **What is compensatory (comp) time?**
   [Answer] Compensatory time is the process of crediting an employee for personal hours in lieu of monetary overtime compensation. Compensatory time, unlike flex-time, can

be used at any point in the future. Compensatory time must be credited at straight time or time and a half for each overtime hour worked.

8. **Is comp time an option in lieu of overtime wages? How is that handled?**
   [Answer] Yes, comp time is an option in lieu of overtime. Comp time is tracked in TimeClock Plus (TCP).

9. **How much compensatory time can an employee accumulate?**
   [Answer] Marshall employees can accumulate a maximum of 240 hours of compensatory time (480 for police officers). Compensatory time expires after 1 year from the date earned if it's not used.

10. **Can I split overtime and comp time if supervisor approves?**
    [Answer] Yes, but the department must have an overtime budget and the additional time worked must be agreed upon and approved in advance.

11. **I understand that compensatory time is a mutual agreement, but staff will likely expect to be paid.**
    [Answer] If there is no overtime budget, you won't be able to offer payment. Compensatory time might be your only option.

12. **Is there going to be a standardized process (a form) for approval of overtime pay or compensatory time?**
    [Answer] Yes, this form is on the FLSA and HR Forms website. This form is used campus wide. Let us know if the provided form doesn't meet your needs and we will update it.

13. **How often will supervisors be required to review/approve time?**
    [Answer] Supervisors will approve time every pay period.

14. **If I was converted from exempt to non-exempt, do I still have to use TimeClock Plus (TCP) to report my time out of the office?**
    [Answer] Yes. You will enter your time in TCP.

15. **What if an employee is sick and calls in that he/she is unable to work? That employee might have a full day of student appointments. If the staff member takes 15 minutes or 30 minutes to email appointment cancellations, is this another flex-time situation or would this employee be eligible to request overtime pay or compensatory time…even after the fact?**
    [Answer] Remember, you have to pay employees for working. Taking 15 or 30 minutes to email appointment cancellations will need to be coded as "regular" pay. The remainder of the day will be paid "sick" time. The employee will not be paid more than 7.5 hours for the day and therefore compensatory time is not an issue. Again, we need to start thinking of a solution on how to manage the unexpected. Can we assign a buddy/back up system to make the cancellation calls?

16. **Several of my staff are actively involved in committee service across campus. Should I consider telling them that they should decline serving on committees outside of their immediate job responsibilities in order to prevent the need for overtime? Or, do I need to have them submit a request to me for committee service where we evaluate how much time the committee service is going to require?**
[Answer] Service on committees across campus should be approved by the department Director. The supervisor should evaluate if these committees interfere with the employees ability to get their work done. If the supervisor approves the committee work, the hours served on the committee will be included in the 37.5 hour work week.

17. **What about classified staff council? I have staff members actively involved in staff council. Should there come a time when overtime was needed for regular job duties that were not completed due to work for staff council, can I limit participation?**
[Answer] Classified staff bylaws provide approval of committee members to have up to 4 hours of comp time per month. Yes, you can limit participation if committee work has a negative impact on the employee's regular job duties.

18. **I participate as a UNI 100 facilitator. Will I be allowed to continue volunteering as a UNI facilitator?**
[Answer] We currently provide release time to UNI facilitators and we will continue to find ways to support our UNI program. This is a very important part of student success.

19. **I am not sure that I understand overtime for a week that has a holiday. If we work four days and there is one day of holiday, does overtime begin after 30 hours, or after the regular weekly time of 37.5 hours?**
[Answer] Holiday time off, annual & sick leave are not included in the computation of overtime. Overtime/Compensatory Time starts after an employee has actually worked 37.5 hours in the work week.

20. **Does overtime need to be distributed equally among staff?**
[Answer] You will need to develop an equitable process to handle comp and overtime. However, it doesn't have to be distributed equally and it can be voluntary.

21. **Working from home…even emailing, responding to students, etc… is not allowed without prior approval.**
[Answer] Correct. You will need to create some ground rules because this can be a very slippery slope.

22. **Since I know that there are certain times of the year that working over will be necessary and expected, should I create an expected overtime budget based on the number of hours I would anticipate in overtime in consideration of each staff members' pay rate?**

[Answer] You can request an overtime budget but many departments will not be granted an overtime budget due to our budgetary issues. Your only option may be to award compensatory time off. This is unchartered territory.

23. **What about the inequities? How can we justify inequities within the same paygrade in the classified system? While, it make good sense to increase an employee's salary to qualify for exempt status, this is an additional pay increase that others at the same pay grade are not receiving.**
[Answer] It's not illegal to have employees within the same pay grade classified as exempt and nonexempt. The perceived equity issue occurs when the exempt employees are always assigned to stay late to finish the work and the non-exempt (hourly) employees are sent home to avoid overtime. Again, it's not illegal but rather a perceived inequity, especially when the employees have the exact same job responsibilities.

24. **Will hourly employees be allowed to teach as an adjunct instructor?**
[Answer] Unfortunately we will be suspending hourly employees from working as adjunct employees. I have hopes that software programmers will develop a system that allows this in the future.

25. **Employees attending university events during work hours (compensable vs. non-compensable) What if some departments do it differently?**
[Answer] Departmental leadership will need to manage attendance of University events. Employees don't have to be compensated to attend voluntary events and the needs of the department/customers should be primary. Events that are related to the employees' job duties should be considered release time.

26. **Are paid snow days (if university is closed) considered hours worked for the purpose of overtime calculations?**
[Answer] No. Only actual hours worked are included in the computation of overtime.

27. **What happens if employees work overtime without approval?**
[Answer] - First time, tell them to do better and remind them it must be approved in advance. Make sure the employee is still compensated. Second offense, start documentation/Disciplinary process.

28. **Can employees still have up to 5 hours paid release time for class?**
[Answer] – Yes, if approved by Department Director.

29. **Can management require employees to work overtime?**
[Answer] Yes. It is recommended that you speak with HR for guidance.

30. **Is paid annual and sick leave included in the computation of overtime?**

[Answer] Annual/Sick leave is not included in the computation of overtime. If someone takes a vacation day (7.5 hours) on Monday and then work Tuesday – Friday, they will be paid a total of 37.5 hours for the week. (30 hours worked and 7.5 hours vacation). If the employee is then asked to work 4 hours on Saturday, the breakdown could happen a couple of ways.
   a. (7.5 vacation, 30 worked, 4 hours straight comp time)
   b. (7.5 vacation, 30 worked, 4 hours paid at the straight rate)

31. As a manager, what should I do to prepare for my employee becoming non-exempt?
[Answer] You should prepare to have individual discussions with each affected employee. Human Resource Services will be offering training sessions.

32. When does the work week start and end?
[Answer] The work week begins on Saturday and ends on Friday.

33. Do I need to receive approval from my supervisor to work overtime before I actually work?
[Answer] Yes, employees must obtain approval from their supervisor before working any overtime. This includes all hours over 37.5 in the work week.

34. Can I request an employee to work overtime on Friday and then provide them with time off during the next week in order to avoid an overtime payment?
[Answer] No, the Fair Labor Standards Act clearly defines a work week as a regularly reoccurring period of seven consecutive workdays. Any hour over 37.5 that occurs in the work week must be paid (via overtime pay or compensatory time) within that same week.

35. Why did I not get paid overtime during a holiday week?
[Answer]Overtime is calculated on actual hours worked, not hours paid. Vacation, Sick Leave, and Holidays count as hours paid not actual hours worked, so this would be why one would not receive overtime in a week in which your paid hours exceeded 37.5, but your actual worked hours did not.

36. Can an employee waive overtime hours? What if my employee really wants to help out the department?
[Answer] Due to federal guidelines, an employee may not "opt-out" of receiving overtime compensation.

37. Do I have to pay an employee for overtime if my grant does not allow it?
[Answer] Yes, if the employee performs work for the University we are required to compensate the employee regardless of the source of funding.

38. **What if the employee is aware that he or she is not allowed overtime, but is still working hours that exceed 37.5 in a work-week because of the need to get things done?**

[Answer] Management has the right to exercise control of when work is to be performed. Management must enforce rules to control overtime. If employees work overtime after they have been told they are prohibited from doing so, disciplinary steps must be followed to ensure that the violation will not occur. Whether overtime has been approved or prohibited, the employee must be compensated once overtime has been worked.

39. **How do I determine what my hourly rate of pay**?

[Answer]Your hourly rate of pay can be calculated by dividing your annual salary by 1950 hours.

40. **If for some reason I get a raise that bumps me up to $58,656, will I go back to being an exempt employee?**

[Answer] Salary is not the only factor that determines exempt status. HR would have to conduct a "duties test" to see if your job meets the FLSA "white collar" guidelines. We will also need to make sure that your job falls in line with internal factors that we have established.

41. **My department is considering lowering my base pay so what I make in overtime will equal my current annual salary, is this legal?**

[Answer]Yes, in Department of Labor Fact Sheet 70 confirms that this is a legal practice.

42. **What happens after I max out my comp time at 240 hours?**

[Answer] The Department of Labor Regulations state that an employee must be paid at 1 ½ times their regular hourly rate for any overtime that occurs after an employee has reached 240 hours of compensatory time.

43. **What will be the rule concerning international travel and on-site coordinator overseas?**

[Answer] International travel would be coordinated in the same manner that all travel is coordinated. If you are working you must be paid, and if you work over 37.5 regular hours in a work week you must be paid or give compensatory time.

44. **How will I know if this updated regulation applies to me?**

[Answer] You will be notified personally by the Human Resource Services. The rule does not apply to faculty. In 2016 a similar rule was issued but was halted by an injunction, which may occur again this year. If courts halt it, Marshall University will reassess its approach to these changes and update the campus community.

45. **What is the Fair Labor Standards Act (FLSA)?**

[Answer] The Fair Labor Standards Act establishes minimum wage, overtime pay,

recordkeeping, and youth employment standards. The University's compensation policies and processes comply with the FLSA.

46. **What does the term "non-exempt" mean?**
[Answer] Non-exempt employees are covered by the overtime and recordkeeping provisions of the FLSA and are entitled to overtime pay if work exceeds 40 hours in one workweek. Overtime is paid at a premium of time and one-half of the employee's regular hourly rate and compensated either in pay or in accrual of compensatory time. Human Resource Services is responsible for determining the exemption status for positions at Marshall University, consistent with FLSA regulations.

47. **What does the term "exempt" mean?**
[Answer] Exempt employees are not covered by the overtime provisions of the FLSA and are paid an agreed upon amount for the whole job, regardless of the amount of time or effort required to complete the work. Exempt employees receive a set monthly salary regardless of the number of hours worked. Exempt employees do not record hours of work.

48. **May a non-exempt employee volunteer to work unpaid hours in their regular job in addition to their regular schedule?**
[Answer] All non-exempt employees must be compensated for all hours worked in their regular job.

49. **What if I prefer to clock in and out instead of the timesheet option?**
[Answer] Your supervisor would need to send a request to tcp@marshall.edu

50. **Who can answer questions if I have any?**
[Answer] If the question is about the timesheet process, you would email it to tcp@marshall.edu If the question is about your job duties or FLSA designation, send an email to human-resources@marshall.edu