

# Dartmouth

## **Brief Overview of the Fair Labor Standards Act**

The Fair Labor Standards Act (FLSA) is a Federal law which establishes minimum wage, overtime pay, recordkeeping and youth employment standards affecting all full-time and part-time workers. As such, it is Dartmouth's policy to strictly follow that law, and it applies to all employees at the College, whether grant-funded ("soft money") or positional ("hard money").

### Basic Wage Standards

Covered, nonexempt (hourly-paid) workers are entitled to a minimum wage of not less than \$5.85 per hour effective July 24, 2007; \$6.55 per hour effective July 24, 2008; and \$7.25 per hour effective July 24, 2009. Nonexempt workers must be paid overtime pay at a rate of not less than one and one-half times their regular rates of pay after 40 hours of work in a workweek. (See below for Dartmouth's definition of "hours worked" for the purposes of calculating overtime payments.)

While FLSA does set basic minimum wage and overtime pay standards and regulates the employment of minors, there are a number of employment practices which FLSA does not regulate.

For example, FLSA does not require:

- (1) vacation, holiday, severance, or sick pay;
- (2) meal or rest periods, holidays off, or vacations;
- (3) premium pay for weekend or holiday work;
- (4) pay raises or fringe benefits; or
- (5) a discharge notice, reason for discharge, or immediate payment of final wages to terminated employees.

Also, FLSA does not limit the number of hours in a day or days in a week an employee may be required or scheduled to work, including overtime hours, if the employee is at least 16 years old. The above matters are for agreement between the employer and the employees or their authorized representatives.

### "Exempt" (salaried) vs. "non-exempt" (hourly) employees

Due to the nature of their job duties and responsibilities, some employees are exempt from the overtime pay provisions or both the minimum wage and overtime pay provisions. In accordance with the law, the College has reviewed and regularly continues to review position descriptions and employees' work duties and responsibilities in order to make certain they are properly classified as "exempt" or "non-exempt".

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**Contact your HR Consultant if you have any questions.**



### Recordkeeping

The FLSA requires the College to keep records on wages, hours, and other items, as specified in Department of Labor recordkeeping regulations. Most of the information is of the kind generally maintained by employers in ordinary business practice and in compliance with other laws and regulations. It is important that each employee keep the College informed of any changes to such personal information, and (particularly for hourly employees) that complete and accurate records are kept of all time worked.

### Terms Used in FLSA

**Workweek** - A workweek is a period of 168 hours during 7 consecutive 24-hour periods. It may begin on any day of the week and at any hour of the day established by the employer. The College's workweek begins at 12:01 a.m. Sunday and ends at 11:59 p.m. the following Saturday. For purposes of minimum wage and overtime payment, each workweek stands alone; there can be no averaging of 2 or more workweeks. Employee coverage, compliance with wage payment requirements, and the application of most exemptions are determined on a workweek basis.

**Hours Worked** - Covered employees ("non-exempt", or hourly) must be paid for all hours worked in a workweek. In general, "hours worked" includes all time an employee must be on duty, or on the employer's premises or at any other prescribed place of work, from the beginning of the first principal activity of the work day to the end of the last principal work activity of the workday. Also included is any additional time the employee is allowed (i.e., suffered or permitted) to work.

### Computing Overtime Pay

Overtime must be paid at a rate of at least one and one-half times the employee's regular rate of pay for each hour worked in a workweek in excess of the maximum allowable in a given type of employment, which, at the College, is usually 40 hours per week. Generally, the regular rate includes all payments made by the College to or on behalf of the employee (except for certain statutory exclusions).

The FLSA's definition of "hours worked", noted above, excludes paid time off for sick days, holidays, vacations, and the like, which normally do not count against the 40 hour maximum.

However, Dartmouth's policy is more generous than that required by the FLSA, in that holiday, vacation, and other types of paid leave are counted as hours worked for the purposes of computing overtime. However, in no event will overtime premium rates of pay (with the exception of shift differentials) be duplicated or pyramided. This means that when an employee's particular work falls within two or more overtime or other premium classifications, he or she will be paid only the highest applicable single overtime or other premium rate.

For example, if employees are called in to work on a holiday, and those hours put them beyond 40 hours for that workweek, they are not paid a holiday pay premium plus overtime. They receive the higher of the two hourly rates for those overtime hours worked.

Also, by law, Dartmouth is not permitted to provide hourly employees with compensatory time off for hours worked outside the normal workweek unless the compensatory time off is within the same workweek.

### Union employees

Federal law allows unions to enter into collective bargaining agreements with employers which may alter or supersede some provisions of the FLSA. Dartmouth has four such agreements (IATSE at the Hopkins Center, and three separate SEIU agreements), and in the event of a conflict between an approved collective bargaining agreement and the FLSA, the terms of the agreement will prevail. For that reason, when addressing such questions for union employees, careful review of the applicable agreement is necessary.

### **Related documents:**

- Employment Policies and Procedures Manual  
<http://www.dartmouth.edu/~hrs/policy/>
- Employee Handbook  
[http://www.dartmouth.edu/~hrs/handbook/dartmouth\\_employee\\_handbook.pdf](http://www.dartmouth.edu/~hrs/handbook/dartmouth_employee_handbook.pdf)
- Payroll Forms  
<http://www.dartmouth.edu/~control/payroll/forms.html>