

TO: <RC head>

FROM: University Human Resource Services

DATE: <date>

SUBJECT: FLSA Compliance Review, Retroactive Overtime Payments

Several weeks ago, a list of positions reviewed for compliance with new Fair Labor Standards Act (FLSA) regulations was distributed to your office. This list identified positions that are covered by FLSA's overtime and recordkeeping regulations effective August 22, 2004. (This is the beginning of IU's workweek in which the new federal regulation became effective.)

The next phase of compliance activity is for RCs/departments to process retroactive payments of any overtime due employees back to August 22, 2004. Any employee that occupies(ed) a position now determined to be eligible for overtime under FLSA regulations is due a retroactive payment for such overtime, including the active employee and any former employee in the position, whether terminated or transferred. This applies to positions classified as PA Overtime-eligible (PAO) and PA Salaried Overtime-eligible (PAU).

Attached for distribution to supervisors within your RC/department are instructions for processing this retroactive overtime pay. Consider sending this memo to supervisors and posting it for all employees. In that this retroactive overtime is due designated employees in order to comply with FLSA regulations and associated employees are expecting this pay, it is important that RCs/departments give this process significant attention. Immediate action may be needed to calculate and process retroactive overtime payments.

This office will provide an electronic copy of these retroactive overtime pay instructions to RC HR representatives and payroll processors.

Highlights of RC/Department Requirements

1. **Eligibility for retroactive FLSA overtime pay** – current and former employees in a position classified as PAO or PAU.
2. **Not eligible for overtime pay** – employees in a position classified as PAE (positions that remain exempt from FLSA overtime provisions).
3. **Continued eligibility for overtime pay** – PAO or PAU positions previously designated as PANNE should already be receiving overtime pay. These positions were determined to be covered by FLSA overtime requirements as a result of a Department of Labor investigation in 1999/2000.
4. **Effective date of retroactive FLSA overtime pay** – is the beginning of the IU workweek in which the FLSA regulations became effective, August 22, 2004.

5. **Calculation of retroactive FLSA overtime pay** -- will be based on actual hours worked in excess of 40 in a workweek at a rate of ½ times the employee’s hourly rate of pay. As PA employees, these individuals have been paid a fixed salary regardless of whether they worked 30 hours or 50 hours in a week. Since they have been paid “1 times” for all hours worked, the overtime pay is “½ times” their hourly rate. (Effective April 1, 2005, overtime pay calculations will be based on somewhat different provisions, as specified in earlier correspondence.)
6. **Time Periods and Pay Dates** – for retroactive pay of overtime and the dates on which the employee will receive payment are:

<u>Time Period</u>	<u>Pay Date</u>
August 22, 2004, through Month of January 2005	February 28, 2005
Month of February 2005	March 31, 2005
Month of March 2005	April 30, 2005

For employees that separate from PAO or PAU positions, all retroactive overtime should be processed on the next available monthly pay cycle following the employee’s termination date.

7. **Records of Hours Worked Form** -- until March 31, 2005, all PAO and PAU employees are to continue to use the same Record of Hours Worked form currently in effect and available at www.indiana.edu/~uhrs/flsa/index.html. A new recordkeeping form will be developed and distributed for use starting April 1, 2005.

Accurate records of time worked are required for compliance with FLSA regulations. These records serve as the principal source of data for determining overtime pay and reconciling associated employee inquiries.

Additional information is available at www.indiana.edu/~uhrs/flsa/index.html. This Web site includes copies of communications to departments and employees, along with tools and resources related to the FLSA compliance review project.

Human Resources will hold an information session with RC HR representatives in mid-February to discuss FLSA compliance review outcomes, including applicable policies for PAO and PAU positions and this retroactive payment of overtime.

Contact the Human Resource office if there are questions.

Attachment: Processing Retroactive FLSA Overtime Payments
Updated list of positions reviewed for FLSA compliance