

The Higher Education Workplace

Fall 2016

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The Road to FLSA Compliance

How to Get There From Here

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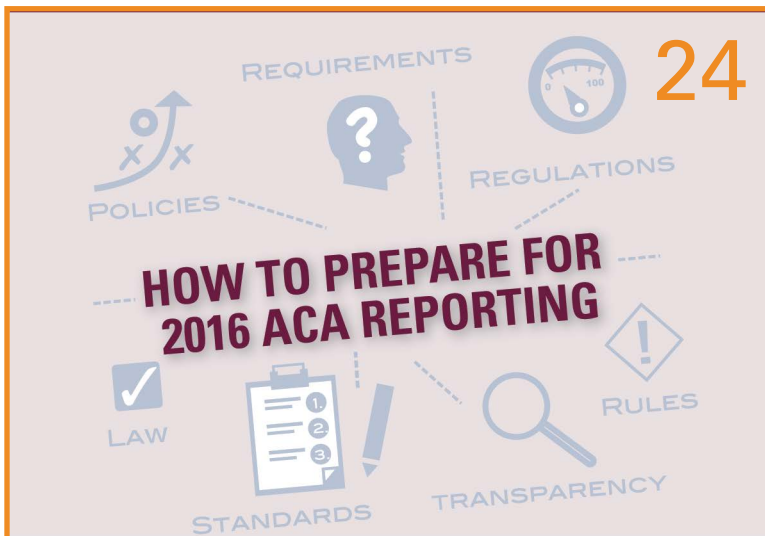
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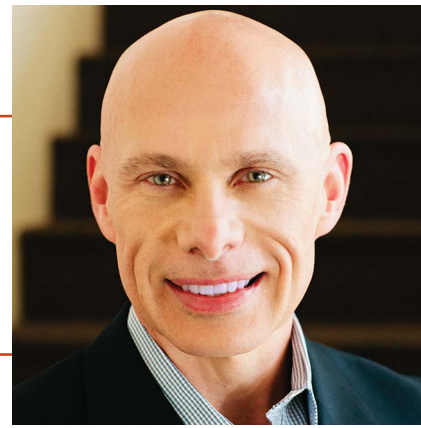
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FLSA Changes — You Did Have an Impact!

By Andy Brantley, CUPA-HR President and Chief Executive Officer



The 2015-16 fiscal year was without a doubt the most challenging public policy year ever for CUPA-HR. We were bombarded with significant challenges, primarily regarding the proposed changes to the Fair Labor Standards Act, that we met head on. Our government relations team worked extraordinary hours to collect data, draft comments and share our concerns with members of the Administration and Congress. We also engaged in an extensive grassroots effort, which was unprecedented for us as an association. Our work regarding FLSA positioned CUPA-HR as a leading voice for higher education, and the partnerships we strengthened or created with 29 higher ed associations, including every presidential association, is an extraordinary achievement that will continue to benefit the association into the future.

As part of our work regarding the proposed overtime changes, CUPA-HR Chief Government Relations Officer Josh Ulman served as co-chair of the Partnership to Protect Workplace Opportunity coalition with the Society for Human Resource Management. Through this effort, Josh led the collaborative work of over 80 associations. Josh and Basil Thomson, CUPA-HR's government relations specialist, also led or joined hundreds of visits to members of Congress and spearheaded a letter to the Hill from 20 national organizations and 10 state/local organizations highlighting the impact of the now-final overtime rule on the public sector.

Special thanks to our colleague Laurita Thomas from the University of Michigan for testifying on behalf of her institution and higher ed HR professionals across the country and to Barbara Carroll from Vanderbilt University for representing higher ed HR during a webinar hosted by the American Council on Education (ACE). I am also very appreciative of the six outstanding higher ed HR leaders who joined us in April for our meeting with the White House Office of Management and Budget.

Here are a few examples of our considerable efforts to impact changes to the FLSA:

- We filed a request for an extension of the comment period.
- We filed two sets of extensive comments (one that was drafted by CUPA-HR and signed by 17 other higher ed associations including all of the associations that represent college and university presidents, and one with the coalition we co-chair on the issue).
- We spearheaded a letter to Congress from public employers requesting its assistance in getting relief from DOL on the proposed rule.
- We submitted a letter for the record with estimated overtime costs for the Senate Small Business Committee's hearing on the proposal.
- On April 19, we met with the White House Office of Management and Budget to share our concerns regarding the proposed overtime regulations. A handful of higher ed HR leaders as well as representatives from ACE, the National Association of Independent Colleges and Universities and NASPA (student affairs professionals) joined us.

We've said from the beginning that we supported reasonable changes to the FLSA, and while most of you would agree with me that the new salary threshold is not reasonable, we *can* all agree that we did in fact impact the final regulations. CUPA-HR is mentioned 26 times in the new regulations, and higher ed is mentioned eight times. DOL also spent considerable time creating higher ed-specific resources that are now available on its website and on the CUPA-HR website.

So thank you for making your voice heard and for helping us make our voices heard in D.C. and across the country. You did have an impact!

A handwritten signature in black ink that reads "Andy Brantley". The signature is stylized and fluid.

Andy Brantley | CUPA-HR President and CEO

Final “Blacklisting” Rules Imposing New Requirements on Federal Contractors Go Into Effect

In late August, the final rules implementing the Fair Pay and Safe Workplaces Executive Order went into effect. Additionally, the president amended the Executive Order (EO) to add language that will bolster the final rules against litigation challenging their constitutionality and their conflict with other federal statutes.

The EO requires prospective federal contractors and subcontractors to disclose labor law violations and provides guidance for agencies on how to consider labor violations when awarding federal contracts. Unlike the proposed regulation and guidance issued in May 2015, the final rules include some positive changes for federal contractors, including an extension of the compliance timeline and a change in reporting requirements for subcontractors, who will make their disclosures to the Department of Labor (DOL) as opposed to the prime contractor. With the new rules fully phased in, prospective federal contractors will be required to disclose violations of 14 federal labor and employment laws (and their state equivalents) for the last three years in order to be considered for new federal contracts valued at more than \$500,000.

The main points of the final rules include:

- The effective date will be phased in starting on October 25, 2016.

- For prime contractors, the rules will only apply to contracts of at least \$50 million from October 25, 2016 through April 25, 2017 (6 months). The rules will become applicable to contracts of at least \$500,000 on April 26, 2017.
- For subcontractors, the rules will become effective on October 26, 2017, and reporting will be collected by DOL (not the prime contractor).
- The lookback period will be lengthened prospectively and phased in over three years, with a full three-year reporting period being required beginning on October 25, 2018.
- Reporting of state labor law violations will also be phased and will only include OSHA-approved state plans at this time. Any additional state-level reporting requirements would be added via additional rulemaking.
- Paycheck transparency requirements will become effective on January 1, 2017.
- The prohibition on pre-dispute arbitration contract clauses will be effective on October 25, 2016.

DOL has created a website with further information on the final guidance and regulations (<https://www.dol.gov/asp/fairpayandsafeworkplaces/>).

U.S. Court of Appeals Holds That Title VII Does Not Protect Sexual Orientation

The U.S. Court of Appeals for the Seventh Circuit (including Illinois, Indiana and Wisconsin) recently addressed the Equal Employment Opportunity Commission (EEOC)'s position that Title VII covers sexual orientation as a protected class. This is the first time an appeals court has analyzed the EEOC's position.

In *Hively v. Ivy Tech Community College*, the plaintiff, a part-time adjunct professor at Ivy Tech, claimed that her rights under Title VII were violated when she was denied promotion to full-time status and did not have her contract renewed allegedly because she is openly gay. In dismissing the plaintiff's claim, the Seventh Circuit

rejected the EEOC's position, holding (consistent with prior precedent) that the language of Title VII is not broad enough to include sexual orientation. The Seventh Circuit also cited as a determining factor in rejecting the EEOC's position the fact that Congress has considered but has not adopted an amendment to Title VII that would add sexual orientation as a protected class.

The same issue is pending before two other U.S. courts of appeals — the Second Circuit (including New York, Connecticut and Vermont) and the Eleventh Circuit (including Florida, Georgia and Alabama). If there is a split in the circuits, the Supreme Court will likely decide the issue.

Association of Governing Boards Issues Statement on Campus Climate

The board of directors of the Association of Governing Boards of Universities and Colleges has issued a statement on trustees' accountability for campus climate, inclusion and civility. According to the statement, "Governing boards and institution and system chief executive officers ... bear ultimate accountability and responsibility for risk management, institutional reputation, educational quality and the creation of an open and safe campus environment." The recommendations included in the statement are intended to provide guidance to boards and institutional leaders on how they can do their part to "ensure a healthy, vibrant and safe campus community." Among those recommendations:

- Chief executives should be transparent and collaborative with the governing board on campus climate issues.
- Boards should periodically review campus climate policies to ensure those policies are up to date and consistent with institutional mission and relevant laws and regulations.
- Boards should ensure that the institution has allocated appropriate resources to address campus climate needs.
- Governing boards should actively lead in addressing campus climate issues through effective governance practices that are proactive, responsive and adaptive.
- Governing boards should engage with students, faculty, staff, alumni, local communities and other stakeholders to ensure that they fully understand these groups' concerns and current priorities.

To read the full statement, visit agb.org/statements/2016.

Williams College Press Release Cites Number of Trans Students in Incoming Class

Many colleges issue press releases in August about their incoming classes, noting academic successes (record high SAT or ACT scores, for example) and all kinds of demographic information (numbers of minority students, the gender split, etc.). The last year has seen many more colleges let applicants indicate that they are transgender, and — in what may be a first — Williams College included the data in its press release on the incoming class.

“Of the 552 incoming students, 267 identify as men, 251 as women. Two identify as trans or transgender, and one identifies as non-binary,” says the release. A spokeswoman for the college said that officials there did not know of other colleges that have included this information in press releases, but that the goal was to be inclusive. Shane

Windmeyer, executive director of Campus Pride, a group that advocates for transgender students (and many other groups of students), said he had never previously seen a college issue a press release as Williams did.

“It makes sense, now that schools are starting to ask gender identity and sexual orientation on their admissions applications,” he said. “They have the information. This is the first I have heard of it being done. Campus Pride heavily encourages colleges to start to do exactly this.”

This brief first appeared in Inside Higher Ed on August 29, 2016. It was reprinted here with permission.

Which Election Issues Matter Most to HR?

With the presidential election less than two months away, findings from a recent survey of nearly 650 human resources professionals nationwide suggest proposals requiring congressional action, such as healthcare and immigration reform, are of more concern overall than labor and regulatory policies.

The survey, conducted by *Human Resource Executive* magazine in July, found that the ACA and its effects on employers (specifically the Cadillac tax) was the top concern among respondents, followed closely by the new overtime rule and immigration reform. Also near the top of the list: the federal minimum wage, retirement reform and mandatory paid medical/family leave.

Other concerns include NLRB policies on union organizing, regulations on gender-based pay inequities and EEOC protections based on gender identity.

Writes Jack Robinson of Human Resource Executive in a brief announcing the survey results, “In the presidential race itself, respondents strongly favored Republican nominee Donald Trump as most likely to benefit the HR profession. More than 59 percent chose him over Democratic nominee Hillary Clinton. Comments offered by respondents suggested many worry Clinton would favor more burdensome rules for employers.”

Read more about the survey and its findings at www.hreonline.com/HRE/.

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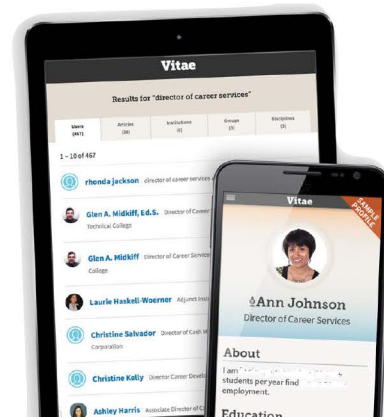
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Cultural Linguistic Services

How One University Is Breaking Down the Language Barrier for Prospective and Current Employees

Like most colleges and universities, University of Wisconsin-Madison's workforce includes people from many different cultures, backgrounds and ethnicities, many of whom do not speak English as their first language. In order to level the playing field for the university's English language learning (ELL) and English as a second language (ESL) employees and prospective employees, human resources created a program to support inclusive communication at all stages of the employment life cycle.

A Strategy for Inclusion and Engagement

The Cultural Linguistic Services (CLS) program, which is embedded in the office of talent management in the office of human resources, provides a range of services that support prospective and current UW-Madison employees in a multilingual and multi-shift work environment. The program aims to enhance communication between ESL and ELL employees and their supervisors/managers; identify professional development events for employees with limited English proficiency; support managers and supervisors as they address climate and culture issues; provide translation services of documents and policies, including job applications and related materials; and more.

Says Don Schutt, UW-Madison's director of human resources, "The overall goal of the office of talent management is to create a healthy, inclusive and engaging work environment at UW-Madison. Providing ways for members of our campus community to communicate with one another clearly and effectively and enabling all of our employees to be able to participate in decision-making processes is critical to inclusion and engagement."

Success From the Start

CLS began as a pilot program in June 2001. The program was partially funded by the U.S. Department of Health and Human Services, the Administration for Children and Families, the Office of Refugee Resettlement and several campus partners including the office of the chancellor, the Equity and Diversity Resource Center, human resources, university housing, facilities planning and management,

and the Wisconsin Union. At that time, three bilingual training officers were hired.

Following the pilot, the decision was made to provide institutional funding for two positions, one for Spanish-speaking employees and one for Hmong-speaking employees. In the first year of the program, CLS staff provided more than 700 hours of direct service to employees. In subsequent years, additional grant funding supported the extension of the program, and there are currently eight full-time positions committed to CLS.

Translation, Training and Learning

The program focuses on four main areas:

- 1) **Interpretation and translation services** in English, Spanish, Hmong, Tibetan and Mandarin Chinese.



Cultural Linguistic Services

**OFFICE OF HUMAN RESOURCES
UNIVERSITY OF WISCONSIN-MADISON**

For its Cultural Linguistic Services program, the University of Wisconsin-Madison received CUPA-HR's 2016 Inclusion Cultivates Excellence Award, which recognizes institutional programs that have made a significant impact with respect to inclusive workplace practices and culture. The CLS team will be presented with the award at the CUPA-HR Annual Conference in September.

- 2) Workplace learning programs.** The Volunteer Tutoring Program matches UW-Madison ELL/ESL employees, including J-1 visa scholars, with tutors. This program includes staff, students, faculty and community members. CLS also created a Tutor Training Certificate program to develop and refine tutors' teaching skills. More than 1,200 individuals have participated in the Volunteer Tutoring Program since its inception in 2008.

The Employee Learning Center helps employees achieve their educational goals through learning plans and individual lessons. Areas of instruction include English conversation practice and pronunciation, basic computer skills, American culture, GED support and more.

CLS also offers ELL classes. Last year, in just one department alone — facilities planning and management — English classes were provided to nearly 70 employees. Classes were offered during both the day shift and the night shift, for a total of 94 hours of classroom instruction. Competencies covered included workplace safety, workplace interactions, employee benefits, workplace culture and more.

- 3) Multilingual training and information sessions.** CLS facilitates training in five languages at all employee events, including large campus forums on human resources, campus diversity sessions, campus staff governance meetings, safety training, basic computer classes and application information sessions in the community.
- 4) Partnerships and collaborations.** CLS has developed solid collaborations and partnerships on campus and in the community to support programs that engage diverse groups of students, employees and community groups. Campus partnerships include pre-college programs and


research centers at UW-Madison. Community partnerships include the Wisconsin Tibetan Association, Centro Hispano, Hmong Education Council, Madison Technical College and UW-Hospital interpreting services.

Campus Culture Change

According to Schutt, the CLS program has been a catalyst for culture change at UW-Madison. He says one example of this is the significant increase in recognition of employees who work on 2nd and 3rd shifts (many of whom are English language learning). “Frequently, in a multi-shift work environment, communication efforts are primarily focused on employees who work during the daytime hours,” says Schutt. “However, through the engagement work we’ve been doing to meet the needs of *all* UW-Madison employees, a greater emphasis on communication across all shifts has occurred.”

Continues Schutt, “Our chancellor was sharing institutional information last year and scheduled an evening session, and one of our long-time evening shift employees remarked that it was the first time he had ever seen a chancellor during his work time.”

Says Carmen Romero, CLS program supervisor, “Multilingual communication is now the standard at UW-Madison. Our staff governance group meetings are interpreted into Spanish at each meeting. When the representative for whom English is not his first language speaks, a CLS interpreter will often interpret his words for the mostly English-speaking audience.” That, she says, is an example of an employee voice being heard that was previously “invisible” amidst the busy campus life.

Adds Schutt, “Just having the conversation about what it means to have many languages in the workplace stimulates consideration for changes in institutional communication and access to information.” 

A New Approach to Dual-Career Services

Transforming the Two-Body Problem Into a Community-Building Opportunity

By Melissa Curry

In 2013, the University of Florida embarked upon a recruitment plan to hire 100 nationally recognized faculty members over a five-year period. As we began to develop our plan to anchor top talent to the university, we also needed to explore the potential barriers. In our review, we discovered that, according to the U.S. Census Bureau, two-thirds of families rely on dual incomes. In academia, this number is even higher, thus making it harder to attract and retain top talent — especially in smaller, non-urban communities. The “two-body problem” has become a significant hurdle for universities, posing challenges to recruiting and retaining the best and brightest faculty and staff.

A 2008 survey by Stanford University’s Clayman Institute indicated that 72 percent of full-time faculty at U.S. research universities have partners working outside the home. Those working partners are equally divided between academia and other industries. In a dual-earner household, relocation presents a number of distinct challenges because of the potential effect of the move on the trailing partner. While relocation may be a good career opportunity for the candidate, the situation may not always be so bright for the other individual in the partnership.

Universities have struggled for years to develop meaningful dual-career programs. Like many other institutions, the University of Florida offers a dual-career program for academic couples, with partial funding available to the department hiring the trailing spouse/partner. However, this only applies to about 36 percent of total recruits to the university — it fails to address the increasing number of faculty that have partners that work outside of academia or stay at home.

Partners Matter

Job opportunities for the partners of recruited faculty are key to successful recruitment and retention. A faculty member’s career decisions are strongly influenced by his

or her partner’s employment status, and universities are in danger of losing some of their most prized candidates if suitable employment cannot be found for qualified partners. In independent, confidential studies analyzing factors influencing failed faculty recruitment, two major U.S. research institutions found that partner employment ranked high (number one or two) in lists that included salary, housing costs and 15 other factors. A German study found that 72 percent of German scientists working abroad in the U.S. cited “lack of career opportunities for partner” as a decisive factor for scientists contemplating a return home.

All families encounter challenges when facing relocation for a job. The act of uprooting a family, changing homes and schools and reorienting lifestyles in a new location is disruptive and not at all easy. With such high numbers of households with two earners, chances are that a relocation candidate has to consider not only his or her own career, but also a spouse’s or partner’s career. Income replacement can often become the primary concern of dual-career couples during relocation, and the family’s need to maintain a certain income level may play a vital part in the relocation decision. When income replacement represents an important need, the stress related to achieving that goal may affect retention — even if the candidate accepts the position and relocates, if the partner is unable to find a job or is unable to connect with the community then the family may be forced to relocate elsewhere.

Our Vision

Universities across the country have been devoting time and resources to developing solutions for dual-career issues. The Higher Education Recruitment Consortium (HERC) is a nonprofit consortium of over 700 universities, hospitals and government agencies created to share resources and strategies for dual-career couples. While there is no regional HERC in the Southeast, University of Florida used the HERC business model to craft its own plan of action.

When we examined the challenge of dual-career employment in our university more closely, we quickly realized we couldn't manage to solve the problem on our own. While we had a fairly good solution for academic couples, that only addressed a small percentage of our recruits. We also needed to provide support and job opportunities for professionals working in many different industries. We knew that if UF was having trouble recruiting dual-career couples to the Gainesville area, then our local employers were probably experiencing the same thing. So we turned to the Gainesville Chamber of Commerce for assistance. Together, we developed a holistic, collaborative approach for recruiting, relocating and retaining top talent to the Gainesville area.

UF's Dual-Career Program

Launched in 2014, the dual-career program is managed by the Chamber of Commerce, where a single point of contact provides a range of information and services. The program takes a three-pronged approach that includes career assistance, practical support for relocation and emotional support.

Career Assistance

In the area of career assistance, the program provides:

- In-person consultations with a career consultant;
- Formal career assessments;
- Dedicated efforts to identify local career opportunities; and
- Established business partners committed to a dual-career and transitional support network, thus guaranteeing trailing spouses'/partners' unprecedented exposure to regional hiring agents.

Practical Support

In the form of practical support, the program provides:

- A website showcasing the "Gainesville Story" to candidates and potential recruits;
- A website providing relocation information and information helpful to new residents of Gainesville;
- Gainesville-focused recruiting materials for candidates;

- Connection and meeting opportunities to learn more about the area and network with other professionals; and
- Tours of Gainesville for trailing spouses/partners during candidate interviews.

Emotional Support

In the way of emotional support, the program provides:


- Coordinated meet-ups and social gatherings for new employees;
- Mentorship/social contact opportunities with established dual-career couples and families;
- Resources on community activities, clubs, volunteer opportunities and entertainment; and
- Resources on mental healthcare professionals in the area.

Funding

The program was developed to be fee-based and self-funded. Companies are charged \$2,000 per referral. In order to implement the program, UF required some start-up funds through executive sponsorship. We pre-purchased 50 referrals for \$100,000. These start-up funds enabled the Chamber of Commerce to hire a career counselor to manage the program and provide marketing supplies.

Our Path Forward

Now that we are in the second year of our program, we have continued to grow and improve it. We continue to increase our community profile, we've established relationships with local businesses, and we've been able to develop other community partnerships. Partnering with a local publisher and a few local companies, we also developed and published a relocation guide. *The Guide to Greater Gainesville* was such a success that the publisher plans to republish the guide annually and has also developed a website and digital guide.

The University of Florida has now hired 92 of its goal of 100 nationally recognized faculty members, and the dual-career program has played a large role in that success. 

Melissa Curry is director of recruitment and staffing at University of Florida. She can be reached at mmayer@ufl.edu.

DOL's Overtime Rule

An Overview and a Look at What's Next

By Josh Ulman, Christi Layman and Basil Thomson

After spending more than two years intensely lobbying the U.S. Department of Labor (DOL) on behalf of higher education, on May 18 CUPA-HR pivoted from advocacy to education when DOL issued its final rule that made changes to overtime pay requirements under the Fair Labor Standards Act (FLSA). The rule, which increases the salary threshold for white-collar exemptions from \$23,660 to \$47,476 beginning December 1 and automatically increases the threshold every three years thereafter, may impact college campuses more than any other federal regulation in recent history.

CUPA-HR made the rule a top priority on our advocacy agenda over the past year and a half and became the voice of higher education advocating for positive changes to the proposed rule and educating institutions on what the changes would mean for their campuses. In the months since its release, CUPA-HR has pivoted to post-rule implementation education efforts and potential legislative actions that could lessen the impact on campuses.

Recap of CUPA-HR's Advocacy Efforts Prior to the Rule

At each and every stage of the rulemaking process, CUPA-HR was actively engaged to prepare members for what was to come and to ensure that our representatives in Washington, D.C., were aware of the many unintended consequences the proposal would have on the higher education community.

On March 13, 2014, President Barack Obama issued a memorandum directing Secretary of Labor Thomas Perez to make changes to the regulations governing exemptions to the FLSA's overtime pay requirements for executive, administrative and professional employees. In May of that year, CUPA-HR met with the Secretary Perez to discuss our concerns with changes to the exemptions. At that time, we joined the Society for Human Resource Management and several other associations and employers to create the Partnership to Protect Workplace Opportunity (PPWO), which we co-chaired.

On July 6, 2015, DOL issued the proposed rule, and we asked CUPA-HR members to complete a survey to help us more fully understand the impact of the proposal. Using this insightful feedback from members and from many higher education institutions and associations, on September 4, 2015, CUPA-HR submitted extensive comments on behalf of 18 higher education associations and CUPA-HR members.

While DOL reviewed the 270,000 comments that were submitted, CUPA-HR began an aggressive lobbying campaign to inform Congress of the many unintended consequences of the proposed rule. We also created a web page for our members with news and resources related to the rule. With PPWO, we created a grassroots portal for affected parties to urge the administration to reconsider its rulemaking while also calling on members of Congress to support the Protecting Workplace Advancement and Opportunity Act (PWAO Act) — a bill which would require the Labor Department to conduct a new and comprehensive economic analysis on the impact of mandatory overtime expansion to small businesses, nonprofits and public employers as well as an analysis on the effect on employee flexibility before implementing a change to the exemptions.

Then in April of this year, CUPA-HR led a meeting for other higher ed associations to meet with the Office of Information and Regulatory Affairs (OIRA) as it reviewed the final rule to once again advocate for positive changes to the rule. In that meeting, we presented data from CUPA-HR's 2016 Professionals in Higher Education Salary Survey, which found that 47 common professional-level positions in higher ed fell within the window of having their status changed from exempt to non-exempt should the proposed change be fully implemented.

Education Efforts Post-Rule

Although CUPA-HR was deeply disappointed that DOL did not do more to address the concerns of colleges and universities across the country, our immediate action

following the announcement of the final rule was to establish a set of educational materials and different types of programming to help members comply by the time the rule takes effect on December 1.

A week after the final rule came out, we offered a free webinar presented in partnership with 29 other higher education organizations that covered key elements of the new overtime regulations, the compliance timeline, implementation steps that colleges and universities must take and key challenges higher ed institutions will need to address.

That week we also issued the first in a series of white papers to further clarify outstanding questions on the final rule. That white paper, cosponsored by the NCAA, explains the process of paying coaches and athletic trainers under the FLSA and clarifies how/when/if athletics staff can be considered exempt under the FLSA. The second white paper provides guidance on the exempt/non-exempt status of several higher ed-specific positions (like academic and non-academic administrators, residence hall directors, postdocs, etc.) and provides guidance on best practices for ensuring compliance. The third white paper addresses the exempt/non-exempt status of extension agents/educators at public and land-grant institutions.

In addition, CUPA-HR offered two virtual workshops where participants had the opportunity to learn from higher ed HR leaders about how they can partner with other campus departments to ensure compliance; dive deeper into the higher ed implications related to the new rule; and discover important practices that institutions are implementing to ensure compliance by the December 1 deadline. We also added two FLSA preconference workshops to the Annual Conference and Expo 2016 line-up.

Complementing the white papers, webinars and workshops, CUPA-HR's Knowledge Center is constantly updating its FLSA Toolkit with presentations, sample policies, how-tos and other resources geared toward educating members on higher ed specifics as they relate

to the new overtime rule. Another great resource where members can ask questions of their peers about how they're working toward compliance or share what their own institution is doing is the association's social community, CUPA-HR Connect. We have also expanded our e-learning offerings by adding two new Essentials videos on FLSA.

Advocacy Efforts Post-Rule

Although we have now shifted our focus to providing educational materials gearing up for the December 1 compliance date, we continue to let lawmakers know

The rule presents tremendous challenges for colleges and universities, which will face annual cost increases in the millions and be forced to make difficult decisions for the 3.9 million higher ed workers nationwide and the students they serve.

that the final rule's \$47,476 salary threshold, although a reduction from the \$50,000 threshold in the proposal, is still too large an increase all at once in 2016 and that the automatic escalation every three years thereafter is problematic. We also continue let lawmakers and others know that the rule presents tremendous challenges for colleges and universities, which will face annual cost increases in the millions and be forced to make difficult decisions for the 3.9 million higher education workers nationwide and the students they serve.

To complement our continued meetings with Congressional offices, we have also been active in post-rule hearings, submitting letters expressing our concerns and voicing additional support for the PWAO Act. Although the Act is now up to a total of 200 cosponsors, showing there is great concern with the rule, it has been difficult to get Democratic members of Congress to sign on to the bill; as such, we have been meeting with Democratic offices

to discuss other options. We have worked in conjunction with various other stakeholders to make sure that Congress understands that relief is necessary, and that we would be supportive of a three-year phase-in as was noted in the comments we submitted on the rule.

Although CUPA-HR will continue to push for a solution that will lessen the impact on colleges and universities, it is important to note that such a solution is likely far off, and the reality is that employers must prepare to be in compliance with the rule by December 1.

This work has culminated in the Overtime Reform and Enhancement Act (OREA), a bill introduced on July 13 by Rep. Kurt Schrader (D-OR), that would phase in the new salary threshold over three years and eliminate the automatic three-year updates to the threshold. CUPA-HR has submitted a letter to Congressman Schrader expressing our support for the legislation.

Lastly, on July 14, the House Appropriations Committee approved the Fiscal Year 2017 Labor, Health and Human Services Funding bill, which includes language prohibiting the enforcement of the overtime rule.

The Reality of the Situation Moving Forward


It is clear that the rule has produced significant concern amongst policymakers on both sides of the aisle, and for Republicans especially the rule has become a case study of problems with the federal rulemaking process. Both the Congressional Republican agenda and the Republican Party platform condemn the rule.

Given the breadth and extent of the advocacy work CUPA-HR has undertaken and the positive progress that has been made in the form of OREA, one would

hope that it would result in a legislative fix mitigating the impacts of the overtime rule. However, the odds of success are very much stacked against legislative relief. The presidential elections this year and resulting party conventions have shortened the Congressional legislative calendar considerably. Congress will meet for the month of

September and not again until December 1, which means that Republicans and Democrats will only have a month to compromise on a piece of legislation that both parties can get behind — and even if such a feat could be achieved, it seems unlikely that any legislation would be able to pass with a veto-proof majority.

Although CUPA-HR will continue to advocate for improvements to the final rule and push members of Congress to find a solution that will

lessen the impact on colleges and universities, it is important to note that such a solution is far off, and the reality is that employers must prepare to be in compliance by December 1. 

For FLSA news and resources, including links to blog posts, Knowledge Center resources, white papers, compliance tips and more, visit CUPA-HR's FLSA web page at www.cupahr.org/advocacy/flsa.aspx.

To learn what you should be doing to prepare for the December 1 compliance deadline, which positions are proving the most challenging for higher ed and how other institutions are navigating the change, see the article "The Road to FLSA Compliance: How to Get There From Here" on pp. 34-37.

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THE SUPERVISOR'S TOOLBOX

Resources to Help Managers Manage







It's been said that "people join organizations, but leave bosses." No matter how great an organization is or how much an employee loves his or her job, having a bad boss often trumps everything that's good about a job. Scores of studies have found bad bosses are bad for morale, have a negative effect on productivity, can negatively impact their employees' health and wellbeing, and can cost an organization hundreds of thousands of dollars in turnover. Simply put, bad bosses are bad for business.

And while it's certainly true that some individuals just aren't cut out for management, many "bad" bosses aren't fundamentally incompetent or inept — they're simply uninformed. All too often, individuals are hired or promoted into a supervisory role without having received any kind of manager training. Many aren't given the kind of support they need to learn, grow and flourish in a management role.

But one HR professional set out to change that on his campus. For the past 15 years, Richard Wilkinson has championed better management practices, both in higher education and in his previous work in global health. He is a firm believer in the tenet that the quality of management and supervision is central to the success of an organization and the quality of an individual's work experience. He's seen firsthand that how employees experience their bosses directly affects their level of engagement and whether they choose to stay with an organization or leave.

He's also been frustrated with the lack of resources available for supervisors to help them navigate their management responsibilities. So, where he saw a need, he crafted a solution — in the form of the *Supervisor's Toolbox* publication that is currently in use at University of Washington Tacoma. We asked Wilkinson, who serves as associate vice chancellor for organizational effectiveness and development at UW Tacoma, to tell us a little about the toolbox and share some of the resources it contains.

Q: What exactly is the *Supervisor's Toolbox*?

A: The *Toolbox* is a readily accessible source of help for the everyday challenges managers and supervisors face in supporting the success of their employees and teams. The publication includes 65 single-page worksheets, checklists, charts and models addressing such basic responsibilities as delegating, dealing with performance problems, fostering accountability, helping staff grow, hiring and managing change.

Q: Where did the idea come from?

A: Over the years I became increasingly frustrated with the apparent absence of a handy reference that put practical tools within easy reach of supervisors. Good ideas were scattered in many different places, often found in workshops. But these good ideas weren't accessible to supervisors when they needed them.

Five years ago I was prodded to create the *Toolbox* when wrapping up a distance learning workshop with colleagues in Africa. At the end I asked what might help keep this content alive for them in the future. One of the participants made the suggestion that I put the tools I was sharing in a "toolbox" they could reference later. Now, five editions on, I'm still fine tuning and improving it.

Q: Can you give us an example of a tool included in the *Supervisor's Toolbox*?

A: One of my favorites, and in my mind the most important, is the Heart of Supervision chart. This chart lists a number of effective behaviors that bring to life the three core responsibilities of supervision in ways that are motivating to knowledge workers. The three core responsibilities are my own distillation of what, at its essence, supervisors must do on behalf of their employees and their campuses — cultivate accountability, set goals and listen. The three factors known to motivate knowledge workers comes from Daniel Pink's book *Drive*.

In my mind, supervisors and managers must listen to learn, set goals to be clear about the work that needs to get done and cultivate accountability to achieve results. Pink describes the three motivational drivers as follows:

- 1) Autonomy — the desire to direct our own lives
- 2) Mastery — the urge to get better and better at something that matters
- 3) Purpose — the yearning to do what we do in the service of something larger than ourselves

The Heart of Supervision chart (shown below) is a how-to showing supervisors the ways they can put these notions into practice.

	Autonomy	Mastery	Purpose
Listen	<ol style="list-style-type: none"> 1. Know your employees 2. Pay positive attention 3. Put yourself in their shoes 4. Ask for feedback 	<ol style="list-style-type: none"> 1. Encourage career aspirations 2. Identify relevant learning opportunities 	<ol style="list-style-type: none"> 1. Keep current 2. Scan the horizon 3. Serve as a sounding board when difficult situations arise
Set Goals	<ol style="list-style-type: none"> 1. Delegate intentionally 2. Build trust—listen, inform, follow-through, advocate when appropriate 3. Help prioritize 4. Foster teamwork 	<ol style="list-style-type: none"> 1. Give challenging assignments and the chance to learn something new 2. Support learning 3. Provide technical support, guidance and feedback 	<ol style="list-style-type: none"> 1. Connect the work to the mission 2. Walk the talk 3. Cultivate self-awareness 4. Clarify your values and seek to understand the values of your staff 5. Admit your mistakes
Cultivate Accountability	<ol style="list-style-type: none"> 1. Clarify responsibilities, authority, expectations 2. Encourage problem-solving. Ask: "What would you do?" 3. Paint a picture of success 4. Establish regular communication routines 5. Reward good work 6. Be candid about work that is sub-par 	<ol style="list-style-type: none"> 1. Be alert to coachable moments 2. Encourage learning from the work 3. Give timely, specific feedback 4. Connect to mentors 	<ol style="list-style-type: none"> 1. Ask: "What best serves the organization's mission, vision and values?" 2. Identify and discuss the ethical dimensions of our work



Q: How do you use the *Toolbox*?

A: For training, coaching and as a personal reference. I continue to turn to the tools, like the delegation worksheet below, for help in my own work in leading the HR team at UW Tacoma. One of the underlying ideas of this worksheet is that delegation is a dialogue.

Delegation Worksheet

<i>Tell the employee...</i>
DELIVERABLE: The result you want and why it matters
DEADLINE: When you want it
CHECK-IN: How frequently you want to be updated
AUTHORITY: How far the employee can go on their own
<i>Ask the employee ...</i>
<ul style="list-style-type: none">• What OBSTACLES they anticipate encountering?• How this task fits with their other PRIORITIES?• What RESOURCES they need?• How confident they are in completing the task on TIME?

Probably the tool I've used the most in coaching others is the four questions to return to dialogue that come from the book *Crucial Conversations*. I've found these useful in helping both supervisors and employees approach difficult conversations they need to have about performance. The questions are:

- What do I want for myself?
- What do I want for others, including the person I'm meeting with?
- What do I want for the relationship?
- How would I behave if I really wanted those results?

Q: Speaking of performance management, does the *Toolbox* contain resources to help supervisors deal with performance problems? I know these conversations are often one of the most dreaded parts of a manager's job.

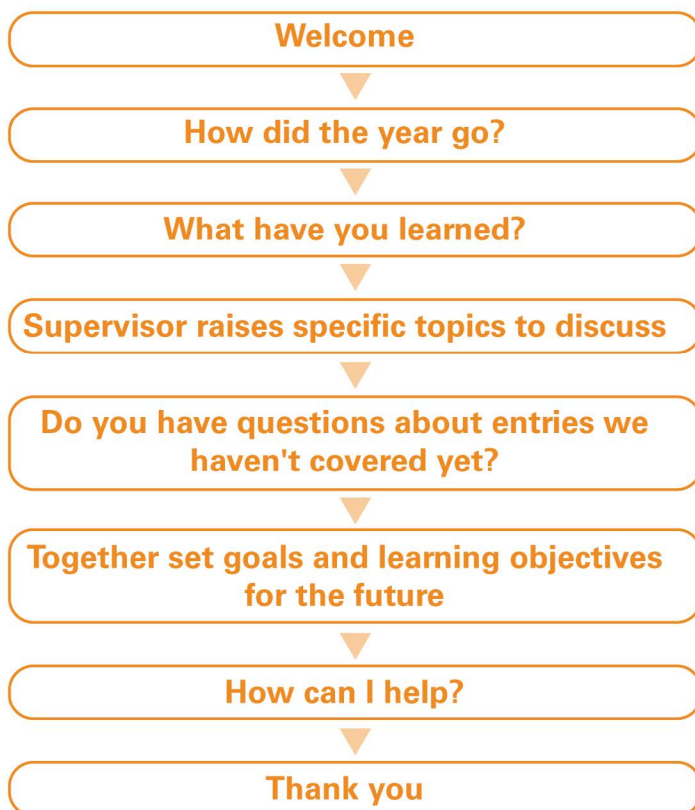
A: Yes. The performance management chapter shows how to simplify the performance management process to four key steps:

- 1) Prepare
- 2) Meet
- 3) Reflect and decide
- 4) Follow up

Each step has its own set of tools. This chapter also includes a brief description of the three principles underlying corrective action: timeliness, fairness and good faith.

Q: Anything fresh about the performance review process?

A: The fifth edition of the *Supervisor's Toolbox* features a solution to the conundrum of desiring a productive conversation with an employee about his or her performance, yet feeling hobbled by the limitations of a standard form. Participants in a recent workshop suggested the flow shown below to guide a performance review discussion. I tried it myself in conducting my last review, and it worked great! I found that following this sequence enables you to have the conversation you want about performance regardless of the form you're required to complete.



Q: What about resources for helping staff grow?

A: Helping staff grow is a critically important part of a manager’s job, so the *Toolbox* contains several resources on this. For example, the Menu of Professional Development Options below was designed to help people think beyond workshops and conferences when considering ways to deepen and broaden their skills.

Learn From the Work Itself	Learn From Colleagues	Learn Through Teaching	Reflective Learning	Learn With Others
<ul style="list-style-type: none"> ➤ Take on stretch assignments (<i>assignments at a higher level of complexity and skill</i>) ➤ Participate in a cross-division or cross-office working group ➤ Develop or improve a process, procedure or practice ➤ Learn and apply a new method or technique ➤ Take on temporary assignments ➤ Help design and lead team retreats 	<ul style="list-style-type: none"> ➤ Join or start a study group, journal club or community of practice ➤ Find a mentor for yourself ➤ Join a LinkedIn group ➤ Network (<i>meet periodically with other professionals to learn about their experiences and challenges</i>) ➤ Learn from the “Digital Network” (Google, YouTube, TED, Wikis, Websites ...) ➤ Shadow a colleague for a day or two 	<ul style="list-style-type: none"> ➤ Mentor others ➤ Read and report to your team on what you read ➤ Teach a workshop or course ➤ Present at a conference ➤ Share what you learn with your team 	<ul style="list-style-type: none"> ➤ Write case studies and articles ➤ Solicit feedback ➤ Keep a journal ➤ Read a book ➤ Create your personal vision and mission statement ➤ Clarify your values 	<ul style="list-style-type: none"> ➤ Join online discussion groups ➤ Take an online course or workshop ➤ Attend workshops, seminars and conferences ➤ Volunteer in your community ➤ Participate in professional associations ➤ Take field trips with teammates to see how others do business

I'm also a big fan of John Whitmore's GROW coaching model, so that's there, too. His is a linear approach to coaching that works like a charm:

- G** What is your **goal**? What does success look like?
- R** What is the current **reality** in relation to your goal? What factors favor success? What obstacles might you encounter?
- O** Given your goal and current reality, what **options** could you try? (This is the brainstorming phase of the coaching process. I always push for at least seven ideas to get past the most obvious and begin to tap into more creative possibilities.)
- W** Which of the options **will** you pursue? (Here's where the employee or supervisor picks one or two ideas from the list that they feel most committed to trying.)
- S** What **support** or reinforcement will help you implement your decision? (The S doesn't appear in Whitmore's model. I added it at the behest of a colleague. He suggested people needed encouragement to follow through on what they decide to do. So I now ask people what support they might need to reinforce their commitment to action.)


Q: What has the reaction on your campus been? Is the *Toolbox* popular? How are people using it?

A: It seems to be quite popular. I know some managers who use it on a near daily basis. Some supervisors I spoke with recently said they valued the chapters on hiring (especially for help with interview questions and reference checking), planning for onboarding, dealing with performance problems, designing change and managing transitions, and getting ideas for professional development.

One person I spoke with found the tool on listening skills helpful; another appreciated the article on how to give powerful positive feedback; and another found useful the framework for supervisors sharing their concerns in a way that opens the door for dialogue by simply asking, "How do you see it?" Some managers have said they shared specific tools with their teams to prompt relevant discussions. One said it helped her consider the employee's point of view as well as her own.

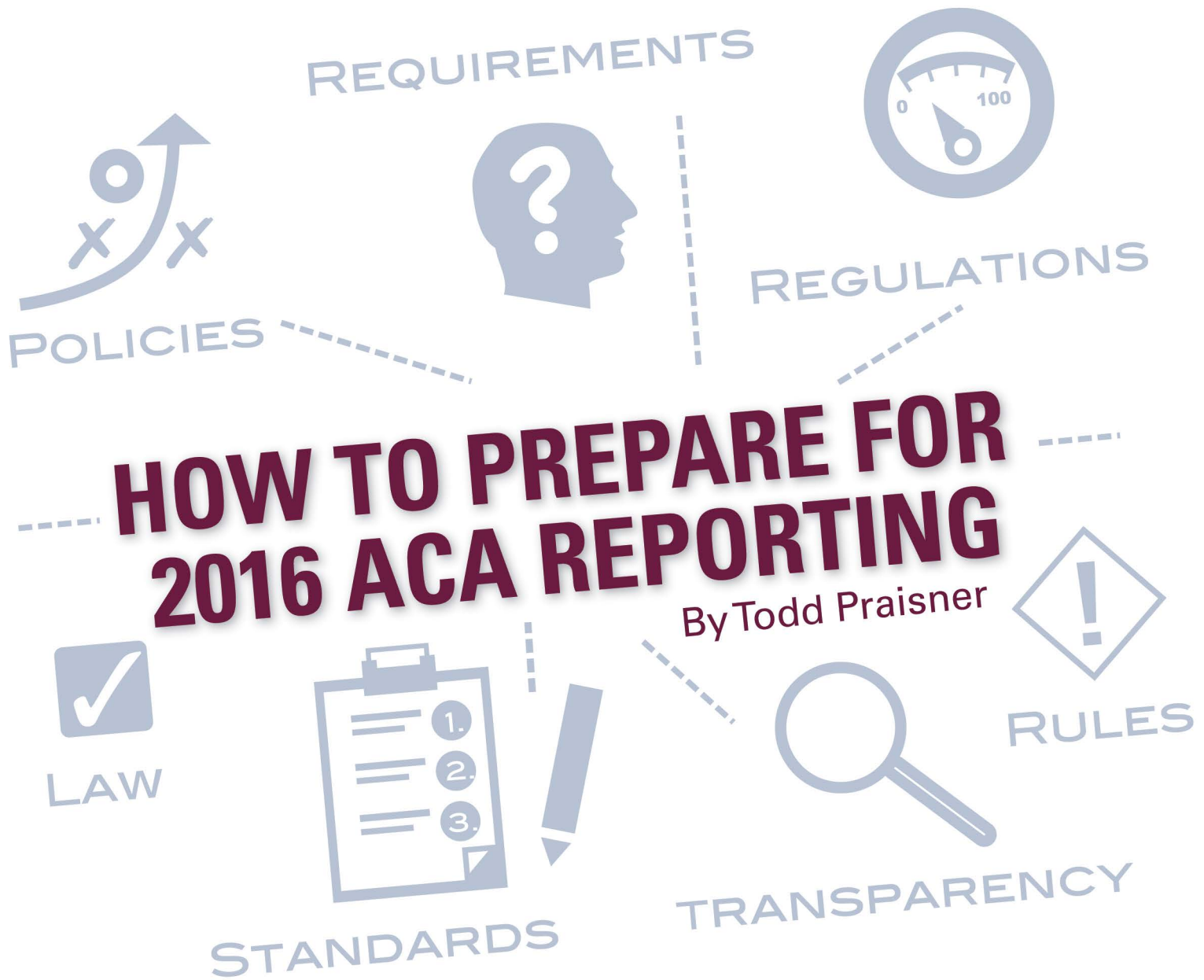
Somehow Florida Gulf Coast University discovered the *Toolbox*. They've just begun using it with individual supervisors as a way of introducing more rigorous management methods to their campus.

Q: So the *Toolbox* is available for anyone to access?

A: It sure is! I strongly believe in the "it takes a village" mentality. If the *Toolbox* can help keep other institutions from having to reinvent the wheel, I'm more than happy to share it. 

You can find the latest edition of Richard Wilkinson's *Supervisor's Toolbox* in the Management Training Toolkit in the CUPA-HR Knowledge Center — www.cupahr.org/knowledgecenter.





Few organizations face as many complex challenges with Affordable Care Act (ACA) compliance as colleges and universities. Determining which employees are eligible for health coverage and then successfully gathering data for a diverse set of jobs and submitting it properly to the IRS requires a steep learning curve, even for the well-equipped HR department.

In 2015, most HR departments at higher education institutions did not realize the scope of ACA compliance requirements. Initially, it seemed straightforward: organizations with more than 50 full-time workers must prove to the IRS that they have offered enrollment in affordable healthcare plans to all eligible employees and their dependents. But as universities and colleges started

to gather the necessary data for tracking eligibility and affordability, reality set in. With multiple HR and benefits administration systems, multiple locations or employee identification numbers and a range of employee types, making sense of the data was daunting and ended up taking far more time and resources than anyone had expected.

These tasks were made even more difficult for higher ed institutions because of their particularly diverse workforce, comprised of faculty, staff, interns and students, both full- and part-time, hired and managed by various departments, sometimes spanning multiple campuses. The data necessary to “prove” ACA compliance was not conveniently located in one report from one system. And the safe harbor codes that the IRS is looking for weren’t in *any* system — meaning

the HR department had to determine which code to use for each employee. Most organizations weren't accurately tracking all of the information they needed, like termination dates or rehire dates, both of which are vital to determining eligibility.

Whether they handled reporting in-house or worked with an outside vendor, 2015 ACA compliance challenges cost higher education institutions more than they expected, in terms of manpower, hours and money. Nearly everyone was surprised by the difficulty they faced as they attempted to pull the data needed for ACA reporting.

Challenges Aboard

In our line of work, we've seen firsthand the challenges institutions have faced with ACA reporting. In one instance, a large state university on the East Coast faced a potential nightmare scenario in part because it offers health insurance benefits to people working as few as 20 hours per week.

ACA compliance isn't so hard to achieve when you're talking about full-time, tenured professors; however, it becomes

challenging when you count graduate students working variable hours, coaches who are paid stipends and adjunct professors who are paid based on scheduled class hours but who typically work extra hours outside the classroom.

These employees had long been assumed to work a certain number of hours and had been paid accordingly, giving the university little reason to closely track hours (and in actuality, it lacked the systems to do so). But under the new world order of the ACA, tracking hours accurately is essential to document that eligible employees have been offered the appropriate health insurance coverage. If that weren't challenging enough, the university faced even more complexity because it offers multiple benefits plans. Therefore, in order to report eligibility accurately to the IRS, it not only had to track eligibility, but track it based on the different plans. Some plans covered employees only, while others included dependents. And knowing which one applied to a particular employee — out of nearly 20,000 workers campus-wide — was key to accurately determining which codes to use on the relevant tax forms.

In another case, a consortium of independent colleges had centralized its employee benefits administration functions, yet it still encountered significant complications with ACA compliance. Data on several thousand employees was coming from multiple HR platforms and benefits administration systems, which unfortunately contributed to incorrect and incomplete information. The consortium's legacy payroll vendor struggled to manage this data environment and missed key reporting dates because of the confusion. The solution, which actually dovetailed with the consortium's overall mission of support and coordination for multiple colleges, ended up being a single ACA system of record that unified all necessary data from the various HR, payroll and benefits administration systems. This consolidation process also uncovered several issues with data accuracy, including the fact that the consortium had been extending benefits to ineligible employees due to the way it was tracking hours for certain workers.

Few organizations face as many complex challenges with Affordable Care Act compliance as colleges and universities.

Why the Difficulty?

Looking across the hundreds of organizations that we worked with for 2015 ACA reporting, consistent problems can be identified:

Inaccurate Data –

Whether it was an inaccurate employee address or Social Security number or conflicting hire dates, termination dates or other data, nearly every employer had issues with capturing accurate data.

Missing Data – Because the ACA required data that wasn't previously tracked, including FMLA leave, breaks in service and termination dates, tracking down missing data created hours of work for overburdened HR teams.

Conflicting Data – When the data in HR, benefits and payroll systems do not align — for example, an employee listed as Curt Hart in one application but Curtis Hart in another — conflicts cause errors that result in inaccurate reporting.

Inadequate Time Tracking – Rather than relying on shift schedules or spreadsheets, hourly tracking systems need to be put in place. Each organization needs to determine a standard for specialty employees to set a very specific time frame for each session and apply that standard evenly for reporting purposes.


How to Simplify the Process

Getting your arms around the data and translating it into the reporting format that the IRS requires is critical to successful ACA compliance. With the next tax filing season now on the horizon, it's vital for all higher education institutions to start planning now to identify any outstanding issues and to find ways to improve data accuracy and collection processes. To that end, the following six steps are key to successfully navigating the 2016 ACA reporting requirements:

- 1) **Automate the process.** It's a no-win proposition to print out reports from multiple systems or manually enter data into a consolidated spreadsheet. Do-it-yourself, manual approaches are not cost-effective and are extremely likely to result in errors, plus they take hours or weeks to compile and check. Since this reporting is an annual process, automation is well worth the investment in saved man hours and reduced fine potential. Automation provides a streamlined process and will also provide a historical view of how you followed the compliance requirements in case of an audit later.
- 2) **Centralize your data.** Consolidate all of the data from your payroll, HRIS and benefits administration systems across your locations or employee identification numbers into a centralized ACA "system of record." Not only will this process uncover errors and inconsistencies, it will also pave the way to forms creation and IRS reporting and facilitate future research that may be needed to respond to appeals or audits. By refreshing the centralized database every month, this system allows organizations to track and monitor the status of employee eligibility and ACA compliance progress throughout the year.
- 3) **Allow time to correct and refine data.** Based on the initial data consolidation, every organization discovers errors and inconsistencies. Build

time into your schedule to research and resolve these issues, which may involve changes to your processes for time tracking, tracking of termination and rehire dates and more. Bear in mind that it may take multiple iterations to work through all the data quality issues.

- 4) **Perform a test run of forms generation.** Build time into your plan to do a trial run of mapping the consolidated data to the ACA reporting forms. This process may uncover more errors and/or gaps in your data, such as payroll and employee demographic data needed to determine safe harbors and eligibility.
- 5) **Prepare in advance for an audit.** It's always a good idea to maintain complete and accurate records throughout the year so that you can provide information to the IRS if required. Good record keeping will ensure that you "prove your work" in case of an audit.
- 6) **Get expert help.** Many organizations do not have the staff or in-house expertise to handle ACA compliance on their own. Partnering with a trusted vendor can help you implement an automated approach, avoid common problems and smoothly handle any issues you may encounter. Nothing about the ACA compliance process is simple, and the exposure to fines and penalties can be quite sizeable, so it's rarely a good idea to go it alone.

ACA reporting seemed to be a challenge for every organization with which we worked this first time around. If your higher education institution struggled with these issues, now is the time to start planning for 2016 reporting. Tackling the problem early will mean a smoother path to complete and timely compliance. 

Todd Praisner is chief executive officer and founder of Austin, Texas-based Tango Health, which provides ACA compliance solutions to medium-size and large employers nationwide.

For more resources related to the ACA, visit the Patient Protection and Affordable Care Act Toolkit in the CUPA-HR Knowledge Center — www.cupahr.org/knowledgecenter.



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Read on to learn more about these individuals and teams who are truly making a difference in higher ed HR.

Donald E. Dickason Award

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Sponsored by TIAA



Mark Coldren

Associate Vice President for Human Resources, University at Buffalo,
The State University of New York

Mark Coldren has been highly engaged with CUPA-HR for over a decade. He began his service at the chapter level; joined the association's Eastern Region board of directors in 2007, where he served as chair in 2009-10; and was elected to the national board in 2008, where he served as chair in 2013-14.

Coldren has consistently been a valuable contributor to CUPA-HR endeavors, often contributing ideas which lead to highly successful new initiatives. He provided outstanding leadership to the development of CUPA-HR's learning framework; is a regular contributor at conferences; has made significant contributions to CUPA-HR's diversity, equity and inclusion and learning and professional development work; serves as a mentor to emerging higher education HR leaders; and serves as co-lead of the association's Wildfire program, which provides development opportunities for early-career higher ed HR professionals.

"The combination of Mark's professional HR expertise, his ability to build relationships, and his personal and professional demeanor have enabled him to elevate the level of HR dialogue on the campuses where he has served and across the higher ed HR community," says Lauren Turner, who served with Coldren on the CUPA-HR board of directors. "Kudos to Mark for his ability to make such a positive difference through his work and volunteer service."

Jane Federowicz

Assistant Vice President for Human Resources, Rosemont College

Over the past 12 years, Jane Federowicz has made significant contributions to CUPA-HR. She was elected to the association's Eastern Region board of directors in 2004 and served as chair in 2006-07. She was also active for several years in CUPA-HR's Eastern Pennsylvania/Delaware Chapter, serving as co-president from 2003-06 and as interim president in 2007-08. In 2006, she joined the national board of directors, where she served as treasurer for seven years. As chair of the association's dues task force, she led the charge on restructuring the dues structure, making membership more accessible to smaller, less well-funded colleges and universities. She was also instrumental in building and strengthening the association's relationships with several corporate partners throughout the years.



"Jane gave willingly of her time and talents to CUPA-HR for many years," says Kevin Price, who served with Federowicz on the national board of directors. "She is one of the most personable individuals I've ever had the pleasure of working with, and she was a great servant-leader for the association."

Distinguished Service Award

Recognizing distinguished service to the association and the profession

Sponsored by Kronos Incorporated



Larry Farmer
HR Officer, Catawba College

Larry Farmer has served in several leadership roles in CUPA-HR over the past 12 years. He served on the board of directors of the association's North Carolina Chapter for eight years, including two terms as president. He also sat for several years on the CUPA-HR Southern Region board of directors, where he served as chair in 2011-12, and was a member of the national board of directors in 2013-14. In addition, Farmer has served on several association committees at the chapter, region and national level.

"Larry has long been a source of leadership in CUPA-HR and truly cares about the association's mission and vision," says Deborah Benton, who served with Farmer on the Southern Region board of directors and the national board of directors and who nominated him for the award. "He has demonstrated great leadership within his institution while consistently leading and guiding other HR professionals along the way, and he has dedicated much time and energy to further the efforts of the boards on which he has served. In short, Larry has always modeled the great attitude and caring heart that all HR professionals should emulate."

Chief Executive HR Champion Award

Honoring a president or chancellor who has demonstrated significant support for HR

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Dr. Carine Feyten
President and Chancellor, Texas Woman's University

In her two short years at the helm of Texas Woman's University (TWU), Dr. Carine Feyten has provided support for several HR-related initiatives, including merit pay, flexible work schedules for staff, staff and faculty affinity groups, recognition leave and a streamlined performance evaluation process. Additionally, among her first orders of business when she assumed the presidency was to promote the head of human resources to senior associate vice president and chief HR officer and make the position an executive cabinet-level appointment.

Her other HR- and workforce-related accomplishments include the implementation of a servant leadership framework at TWU; providing regular opportunities for staff and faculty to meet and interact with her; establishing the Center for Women in Business on one of the university's campuses; and creating the Center for Faculty Excellence to provide professional development opportunities, resources, support and inspiration for TWU's faculty.



HR Innovation Awards

Recognizing models of innovative thinking in higher ed HR

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Employee Training Department | Central Community College (for its Faculty and Staff Summits professional development program)

Central Community College's two summits — the Teaching and Learning Summit (for faculty) and the Staff Summit — were created to provide timely, relevant, collaborative professional development opportunities for employees. Each day-long summit is set up like a mini conference, with several different sessions offered from which attendees can choose. Summits take place at all three CCC campuses each spring or summer, and internal talent is utilized to the extent possible in order to help keep costs down. Teaching and Learning Summit topics have ranged from student engagement to learning styles, online teaching strategies, mobile academic apps and more. Staff Summit topics have included stress management, social media, effective communication strategies, Microsoft Office training and more.

Facilities Management HR Team | University of Colorado Boulder (for its Facilities Management Mentor Program)

UC Boulder's Facilities Management Mentor Program pairs individuals in the university's facilities management department in a mentor/mentee relationship according to specific areas of interest, such as enhancing personal and professional skills and abilities, career development or leadership development. The program is highly popular among both managers and staff and has enjoyed high levels of participation from its start in 2012. In fact, the majority of facilities management supervisors, managers and department directors have served as mentors in the program.



Human Resources Administration | Georgia State University (for its HR Bootcamp)

In preparation for the consolidation earlier this year of Georgia State University (GSU) and Georgia Perimeter College, and to enable HR to better meet the needs of the expanded university and its new strategic plan, GSU HR administration developed the HR Bootcamp program. The program — which focused on five HR competencies: relationship management, consultation, organizational leadership and navigation, critical evaluation, and business acumen — consisted of four general sessions over a seven-month period and four cohort group meetings, as well as self-paced work between sessions. General sessions delivered the program topic content, and the cohort sessions provided an opportunity for participants to discuss the topic and how it related to their respective functional areas, share best practices and network with peers.

The outcomes of HR Bootcamp have included better educated and equipped HR officers to meet the demands of the consolidated Georgia State University. GSU HR officers are now considered strategic business partners and trusted advisors to their deans and senior leadership.

Inclusion Cultivates Excellence Award

Celebrating programs that have made a significant impact with respect to inclusive workplace practices and culture

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University of Wisconsin-Madison

(for its Cultural Linguistic Services program)

University of Wisconsin-Madison's Cultural Linguistic Services (CLS) program provides a range of services that reach prospective and current employees in a multilingual and multi-shift work environment. CLS, which is embedded in the office of talent management in the office of human resources, provides services primarily for employees who do not speak English as their first language. To read more about UW-Madison's Cultural Linguistic Services program, see the Inclusion Cultivates Excellence column on pp. 8-9.

HR Excellence Award

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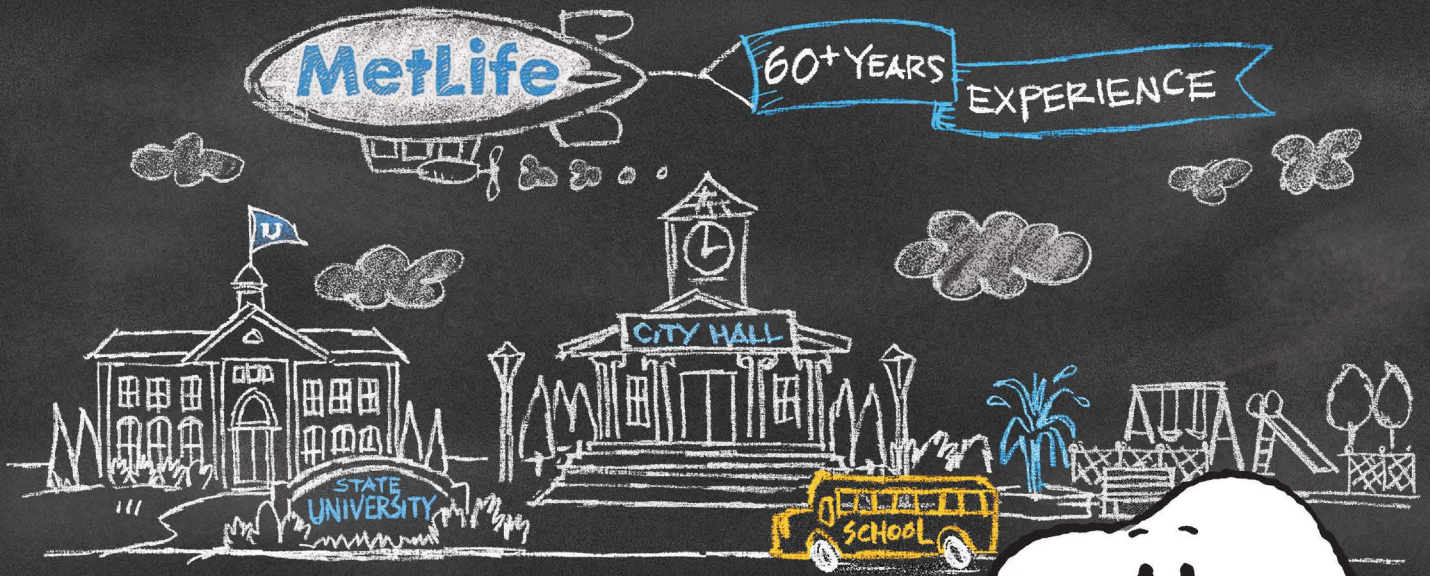


HR Title IX Team | Tarrant County College

(for its campus-wide sexual violence prevention training)

Recognizing that the one-size-fits-all approach rarely works for training and development, Tarrant County College (TCC)'s HR Title IX team (in collaboration with IT, TCC police, academic affairs and student success) implemented custom, targeted sexual violence prevention e-learning programs for different segments of the TCC population — students, administrators, staff, faculty, supervisors and Title IX investigators. The training programs combine real-world scenarios, interactive activities and links to sexual violence prevention resources and policies. TCC staff, faculty and students have completed nearly 11,000 courses since the training was implemented.

ATCC faculty member had this to say about the training: "I provided the option to students in all five of my classes to complete the sexual violence prevention training for extra credit on an exam. Next semester, I plan to add even more Title IX concepts to my curriculum now that I have also completed two of the courses myself. This is excellent information for us all."



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The Road to FLSA Compliance

How to Get There From Here

On May 18, the U.S. Department of Labor released its final overtime rule, doubling the salary threshold for white-collar exemptions to the federal overtime pay requirements under the Fair Labor Standards Act. The rule's impact will be widespread, and higher education institutions and other employers have their work cut out for them as they make the necessary changes to comply in advance of the rule's December 1 effective date.

Here, we offer some guidance around the new rule — what you should be doing now to prepare, which positions are proving the most challenging for higher ed, and how other institutions are navigating the change.

The Rule (in a Nutshell)

The final rule raised the exempt salary threshold from \$23,660 to \$47,476 (\$913 per week), with an automatic increase every three years. The highly compensated threshold also increased, from \$100,000 to \$134,004. There were no changes to the duties test, and there are no exceptions for part-time employees. Employers must be in compliance with the new rule by December 1 of this year. (The salary threshold does not apply to teachers, and certain nonteaching “academic administrators” may qualify as exempt at a lower threshold.)

What You Should Be Doing Now

You’ve likely already begun preparing for the new rule. However, if you’re not sure you’re on the right track or if you’re stuck, Alex Passantino, labor and employment attorney and former acting administrator of DOL’s Wage and Hour Division, suggests following this trajectory:

Step 1: Identify stakeholders and champions who can help define and reach endgame objectives. Who in your institution needs to be brought into the loop? The athletics department, student life and the provost’s office will likely be on this list, as employees in those areas are likely to be affected. Develop a communications plan to engage key players and determine your process for achieving objectives before December 1. Remember, virtually every area of campus will be impacted in some way.

Step 2: Identify positions that will be affected by the new rule. Which currently exempt positions at your institution fall below the \$47,476 threshold?

Step 3: Determine how many hours of overtime those employees currently work. This data is key to making informed decisions about how to move forward.

Step 4: Analyze the “duties gap.” Adjusting the salary above the threshold will not automatically make the position exempt. The duties test has not changed and will still need to be used to determine exempt or non-exempt status.

Step 5: Consider the ripple effect on upstream or cross-stream jobs. Will raising the salary to the new threshold for particular positions cause salary compression? Will you need to raise the salary for other positions that are comparable? Conduct a thorough analysis here.

Step 6: Model various compensation plans to determine the cost of increasing salaries and the cost of reclassification. What will be the annual salary and benefits increase for positions that move to the higher

threshold? What needs to be budgeted for overtime for positions that will move from exempt to non-exempt status? Seeing actual numbers on paper can help you identify the best options for moving forward.

Exempt, or Not?

Many positions in higher education present challenges in trying to determine whether or not they can be classified as exempt. Here’s a little guidance. (And remember, “primary duty” is key here.)

Coaches

Athletic coaches in higher ed institutions may qualify for the rule’s **teacher exemption**, in which case they do not need to meet a certain salary threshold to be considered exempt from overtime. According to guidance from DOL, teaching may include instructing student-athletes in how to perform their sport. Says Alex Passantino, “Where the coach’s responsibilities include instruction of physical health, team concepts and safety or where the coach is responsible for designing instruction for individual student athletes and for specific team needs, the ability to use the exemption is improved.” However, if coaches’ primary duties are recruiting-related, DOL has said they are not considered teachers, so these **recruiting-focused coaching positions will not qualify for the teacher exemption.**

Coaches may also fall under the **academic administrator exemption**. To qualify for this exemption, a coach must have a salary of at least \$913 per week as of December 1 or must meet the minimum salary requirement for teachers at the institution, and his or her primary duty must consist of “administrative functions directly related to academic instruction or training.” Says Passantino, “Coaches who are responsible for administration of an academic department or who act as academic advisors to players, assisting them with academic issues and advising them on degree requirements, are performing exempt work.”

Coaches also may qualify as **exempt administrative employees**. This exemption states that the individual must meet the \$913 per week salary threshold, and his or her primary duty must be “office or non-manual work that requires discretion or independent judgment with respect to significant matters.” Examples of this type of work are recruiting, establishing game schedules, financial planning and budgeting, procurement and purchasing, public relations, marketing, compliance, facilities management and fundraising.

However, Passantino cautions that recruiting work is not likely to qualify if it involves using objective standards

established by the head coach to assess recruits pre-selected by the head coach. “On the other hand,” he says, “if an assistant coach plays a decisive role in determining which schools to visit, which students to recruit and offer scholarships, and how to recruit those students, that portion of his or her job is likely to qualify.”

Athletic Trainers

Passantino says there are a couple of options for classifying athletic trainers as exempt, granted they meet the salary threshold. Like coaches, they may qualify as **exempt administrative employees**. According to Passantino, “Where an athletic trainer has the responsibility for developing the overall sports medicine program, assisting in development of the budget, scheduling staff training, ensuring coverage at athletic events and managing inventory (including the authority to order supplies and materials), the athletic trainer may qualify as an exempt administrative employee, provided that he or she performs these tasks as his or her primary duty.”

Athletic trainers may also qualify as **exempt professionals** (again, provided they meet the salary threshold).

Passantino says they are most likely to pass muster as a “learned professional” if they have successfully completed four academic years of pre-professional and professional

study in a specialized curriculum accredited by the Commission on Accreditation of Allied Health Education Programs and/or are certified by the board of certification of the National Athletic Trainers Association.

Admissions Counselors

In order for admissions counselors to fall under one of the exemptions mentioned prior, they will need to exercise decision making authority on recruitment and admissions matters. Says Passantino, “Most admissions counselors **do not exercise such decision-making authority, and therefore will likely need to be classified as non-exempt.**”

Academic Counselors

As long as their salary is at least as much as the entrance salary for teachers at the institution, most academic counselors will meet the requirements of the **academic administrator exemption**. However, each employee’s actual duties must be evaluated to make sure they meet the requirements of the duties test for the exemption.

Resident Directors

Resident directors can fall under the **administrative/executive exemption**, but they must meet the salary threshold, and DOL has said that **housing does not count toward the salary level**.

Postdocs

Postdoctoral fellows often meet the duties test for the **learned professional exemption**. They must, however, also satisfy the salary level test to qualify.

Partial-Year Employees

If an employee works nine or 10 months but is paid over 12 months and meets the salary threshold during those nine or 10 months, he or she is exempt. However, these employees **cannot do any work outside of those nine or 10 months**, or they’ll have to be paid for that work, and it could jeopardize their exempt status.

Remote Access and Tracking Hours

It’s important to consider remote access when weighing the pros and cons of reclassifying to exempt or paying overtime. If a nonexempt employee were to reply to a text message, take a work phone call, respond to an e-mail, visit a recruit, attend a team meeting or any number of other work-related tasks outside of his or her normal working hours, the employee would need to be paid for this work (at a rate of time and a half for all time over 40 hours per week). Tracking hours when employees have remote access can be incredibly difficult. Solutions may include

All Things FLSA in Higher Ed

Need help navigating the new overtime rule? You can find several resources on the CUPA-HR website to help you make sense of it all — white papers offering guidance on how to treat specific higher ed positions, blog posts on FLSA-related news and happenings, an archived webinar on how to prepare for the changes, an FLSA Toolkit in the Knowledge Center and more.

And if you’re attending this year’s CUPA-HR Annual Conference, you still have time to register for one of two FLSA preconference workshops to hear from your peers how they’re readying for the December 1 compliance deadline. Conference attendees will also hear from Dr. David Weil, administrator of DOL’s Wage and Hour Division, in the FLSA Super Session.

For all things FLSA in higher ed, visit www.cupahr.org/advocacy/flsa.aspx.

restricting remote access or smartphone usage to normal working hours or crafting working hours to accommodate these tasks as part of the employee's "normal" schedule.

What Are Others Doing?

No doubt, there's a lot to consider when trying to navigate the new overtime rule. Here's how some of your colleagues are preparing for the change.

Analyzing and Reclassifying Positions

At Towson University, the second largest institution in the University System of Maryland, more than 185 currently exempt positions fall below the new salary threshold. Here's how HR leaders at Towson approached the reclassification conundrum.

First, all the possible scenarios were laid out. Says Kristi Yowell, Towson's associate director of human resources, "We came up with four workable options for these positions, which helped us to drill down and more closely examine each position, its job description, its actual duties and its required hours." The four options were:

- 1) Transition currently exempt staff to non-exempt status in existing non-exempt job classifications.
- 2) Do not restructure positions, but move currently exempt employees to a newly created non-exempt specification used for compensation-based decisions only. These individuals would continue to qualify for exempt status based on duties, but not based on salary. The current salaries for these individuals would remain the same, but they would become overtime eligible. Some level of exempt-status benefits would be retained.
- 3) Restructure positions, expanding duties and responsibilities of some exempt positions remaining exempt and reducing duties and responsibilities of others transitioning to non-exempt positions. Reclassifications would be based on duties. Decisions on salary, based on revised duties, would be explored on a case-by-case basis. Newly non-exempt positions would become overtime eligible, and remaining exempt positions would be increased to the new salary threshold.
- 4) Leave duties the same and increase salaries to meet the new threshold, which will in some cases result in compression and equity issues. Compression issues would be addressed at a later date, after the market has a chance to stabilize.

"After a great deal of analysis, we landed on increasing the salaries of the majority of the 185 affected positions to the new threshold," says Yowell. "Additionally, we're creating some new non-exempt classifications to address employees who will fall below the salary threshold due to a reduced FTE."


Education and Communication

Many institutions have already determined which positions will be reclassified and which will not and have now moved on to education and training, which can be a monumental undertaking in and of itself. Amy King, vice chancellor for human resources at University of Denver, says her team is in the process of educating supervisors of affected employees on things like timekeeping responsibilities, how to calculate travel time, policies for cell phone usage after work hours, how to address performance issues so that poor performance isn't contributing to overtime and how to evaluate efficiencies in work processes (again, with an eye toward reducing or eliminating overtime).

Human resources at University of Missouri System devised a strategic communications plan early in the process, identifying key communication objectives, target audiences, key messages, communication vehicles and mechanisms, communication deliverables and timing, and anticipated impact and risks. Says Eric Smetana of UM System human resources, "Our communications plan encompasses all levels of employees across the university system. We're using a variety of media and approaches, including campus forums, mass e-mails, an FLSA web page, FAQs, talking points and an e-mail inbox to which questions can be sent."

Smetana says the next step will be working with campus partners on individualized communications for affected employees and delivering specific training tailored for these employees and their managers regarding timekeeping, overtime, remote access and other FLSA-related material.

An Opportunity for HR

Getting to compliance with the new overtime rule can seem like a daunting task and will no doubt be challenging. Nonetheless, human resources is well positioned to take the lead in this effort, and in doing so can highlight its strategic value to the institution. With a structured approach of gathering data, conducting thorough analyses, communicating early and often with stakeholders, and training affected employees and managers on timekeeping, remote access and other FLSA-related topics, though it may not seem like it when you're in the thick of it all, you *can* get there from here. 



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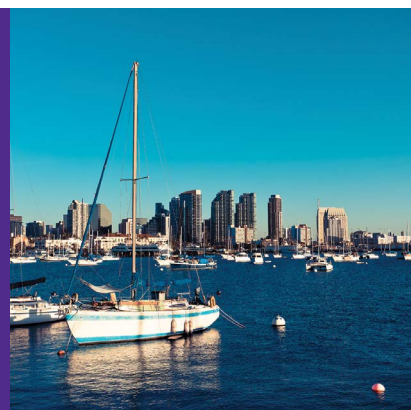


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Single-Track Sessions



ahr.org/conferences

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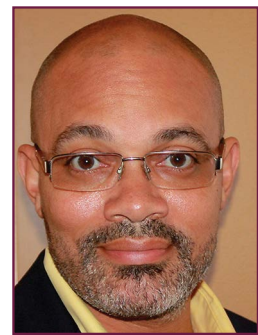
We would like to extend our sincere thanks and appreciation to the five individuals who completed their terms on CUPA-HR's national board of directors on June 30. These individuals gave freely of their time and talents, and each made tremendous contributions to the association over their past few years of service on the board. Thank you for your service and leadership!



Candace Baer
Vice President for Human Resources
Rhode Island School of Design



Deborah Benton
Employee Relations Manager
Tulsa Community College



James Gallaher
Vice President of Human Resources,
Diversity and Wellness
Butler University



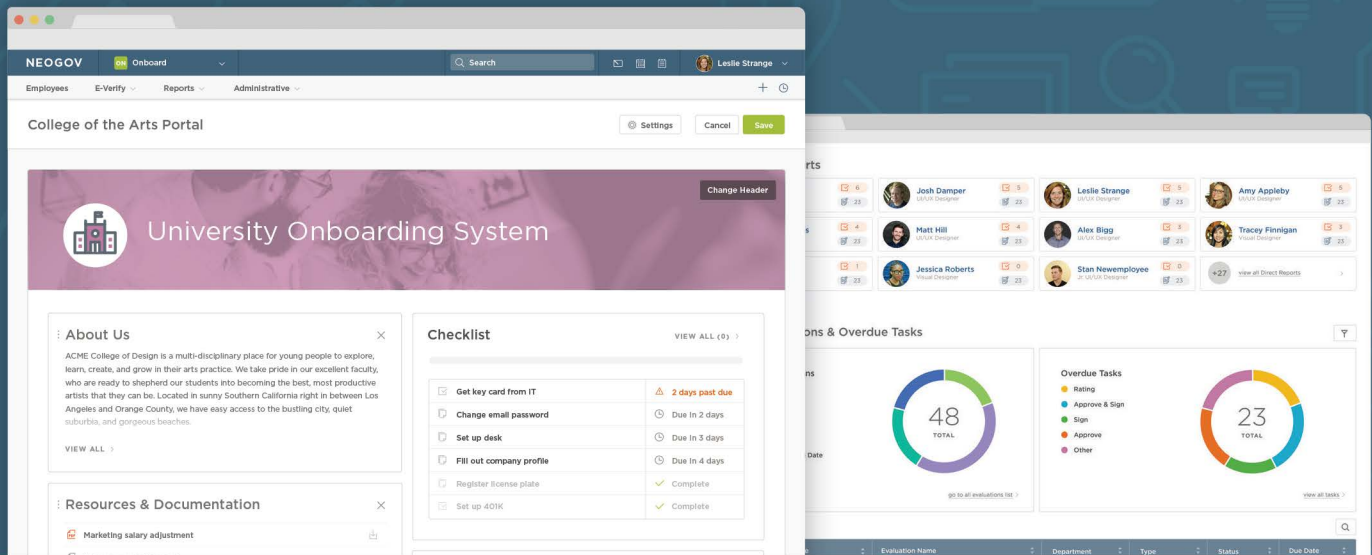
Linda Lulli
Vice President for Human Resources
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Congratulations to Our Newest Honorary Life Members

As a show of appreciation for their dedication to CUPA-HR over many years and a nod to their professional achievements, two former CUPA-HR volunteer leaders have been granted honorary life membership in the association.



Barbara Martin Lema

Over the course of two decades, Barbara Martin Lema has served in several leadership capacities in CUPA-HR, including two terms as president of the Southern New England Chapter and three years on the Eastern Region board of directors, where she served as director of chapter and member relations and twice as conference program chair. She also served on the association's professional development committee and has contributed to CUPA-HR conferences as a presenter. In 2014, she received the Eastern Region's Diedrich K. Willers Award, which recognizes a CUPA-HR member for contributions to the cumulative knowledge and stature of the HR profession within higher education. Lema retired in August from Wheaton College after

serving for 23 years as assistant vice president for human resources.



Linda Lulli

Linda Lulli has been a CUPA-HR member for nearly 20 years and has been a dedicated association leader for the past decade. She began her service as a member of the Eastern Region board of directors in 2006 and served for three years in that role. She was elected to the national board of directors in 2010 and served as chair in 2014-15. In addition, Lulli has chaired a number of association committees, including the diversity, equity and inclusion committee, the annual conference program committee and the public policy committee. She's also been active in the association's Wildfire program for early-career higher ed HR professionals and facilitated the development of the new board member onboarding experience and is a frequent presenter at CUPA-

HR conferences. Lulli will retire later this year from Bryant University, where she served for nearly 20 years in HR leadership.

Welcome to CUPA-HR!

We're pleased to welcome our newest members to CUPA-HR.

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Featured Events



- 9** Maryland Chapter Conference – Baltimore, Maryland
- 11-13** South Carolina Chapter Conference – Myrtle Beach, South Carolina
- 13** Virtual Workshop – Managing Your Own Career Trajectory
- 25-27** CUPA-HR Annual Conference and Expo – Washington, D.C.



- 12-14** Kentucky Chapter Conference – Lexington, Kentucky
- 12-14** North Carolina Chapter Conference – New Bern, North Carolina
- 17** Florida Chapter Drive-In Meeting – University of Miami, University of Central Florida, Florida State University
- 20** Webinar – What’s New and Improved in CUPA-HR Salary Surveys?
- 20-21** InterMountain West Chapter Conference – Missoula, Montana
- 20-21** Michigan Chapter Conference – Royal Oak, Michigan



- 1-2** Arizona Chapter Conference – Phoenix, Arizona
- 3-4** Northern New England Chapter Conference – North Conway, New Hampshire
- 9-10** Kansas Chapter Conference – Manhattan, Kansas
- 17-18** Rocky Mountain Chapter Conference – Fort Collins, Colorado
- 17-18** Missouri Chapter Conference – Osage Beach, Missouri

We're constantly adding to our calendar of events – chapter meetings, conferences, just-in-time webinars, virtual workshops and more. Visit www.cupahr.org/events/calendar.aspx for a full listing.

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