



August 3, 2016
Tate Student Center Room 137
2:30PM

Staff Council Chair, Michael Lewis, called the meeting to order at 2:31 pm.

Roll Call

Members in attendance: Devin Arnold, Jason Bedgood (via sub), Teri Berryman, Kaelin Broaddus, Debi Chandler, Kelly Cona, Anjali Dougherty (via sub), Melinda Eades, Kat Farlowe, Michele Griffin, Savannah Hembree, Stefani Hilley, Stuart Ivy, Melissa Jackson (via sub), Christine Jepsen, Jenna Jones, Michael Kanning, Brenda Keen, Laura Kelley, Kristin Lawrence, Roswell Lawrence, Michael Lewis, Nichole Lunceford, Marie Mize, Mary Moore, Maggie O'Brien, Maureen O'Brien, Michelle Parkos, Sharen Phinney, Laura Rhicard, Kyla Sterling, Kristi Wall, Elena Williams, Shialoh Wilson

Members absent: Victoria Cooper, Shauna Corsaro, Elmer Gray, Pattie Holly, Kevin James, Laquita Phillips, Carly Surratt, Willie Thorton, Jason Tiller

A quorum was present.

Minutes: Michael asked for a motion to approve the July minutes. They were approved unanimously.

Staff Council Committee Reports

There were no reports.

University Council Committee Reports

There were no reports.

Old Business

There was no old business.

New Business

Selection of Committee Chairs

Mary announced that Elmer Gray is the chair of Staff Needs & Concerns, Michael Kanning is Chair of Benefits and Classifications, Melinda Eades is Chair of Communications. Michael appointed Devin Arnold as Chair of the Health and Safety Committee until the committee meets and decides otherwise.

Guest Speakers:

Michael introduced Juan Jarrett, Senior Vice President of UGA's Human Resources, and Russ Ramsey, Senior Classification Analyst for Compensation, to discuss Fair Labor Standards Act.

On May 18, 2016, the Department of Labor (DOL) issued new regulations for the Fair Labor Standards Act (FLSA), the act that 1) determines who is eligible for overtime and 2) defines the minimum wage for the federal government.

In his State of the Union Address in January 2014, President Obama directed the Secretary of Labor to find ways to increase the take home pay of average Americans to help stimulate the economy. The DOL decided to look into whether or not corporations were compensating their employees fairly in terms of overtime. In 2004, the FLSA stated an employee must make at least \$23,660 to be considered exempt from earning overtime pay. This was the first adjustment since the FLSA became law in 1939. The DOL felt this threshold was too low, and raised it to \$47,476 for full-time annual employment or \$913 per week. The new threshold goes into effect December 1, 2016. It will be updated every 3 years.

This will have a significant impact on the companies and institutions in the southeastern United States where salaries are in the 40th percentile according to the Bureau of Labor Statistics. Other areas of the country and major metropolitan areas will not be as affected because salaries are higher in those areas.

Just satisfying the salary component will not make an employee exempt. In addition to salary, the exemption tests include duties & responsibilities:

Executive (Dean, Director, VP)

Professional (requiring certifications, e.g., doctors, lawyers, CPAs, architects, engineers)

Administrative (85-90% of UGA jobs)

After analyzing all the job classifications on campus, Russ determined the following:

- There are currently 888 exempt classifications (6271 positions)
- 387 classifications (3286 positions) will potentially become non-exempt based on the duties test
- 300 exempt classifications (2897 positions) that will remain exempt, with at least 50% of employees current salaries under new salary threshold

Michael asked Juan if the exemption tests, which did not change, were being performed to verify correct status. Juan replied that the first test was a salary analysis to determine potential budget issues, but that duties were looked at closely. They found that 60% of UGA's positions were exempt, and that seems high and unsustainable.

Mary Moore asked if an employee's status will be changing, when and how will they be notified. Juan shared that UGA is at the beginning of the implementation timeline:

July:

- Initial assessments of all job classifications
- FLSA campus workgroup reviewing and vetting assessments
- Presentation to senior leadership for final confirmation

August through October:

- HR teams meeting with every campus department, division, school, college to review classifications, in some cases one-by-one

November:

- Kronos and supervisor training

November/December:

- Implementation

Juan added that the current communication plan, which needs President Morehead's buy-in, allows for early notification to those staff members whose position will change from exempt to non-exempt. He feels that maximum time is needed for 1) employees to get used to the idea and realize the status change is not a loss of professionalism, and 2) employees to prepare for the change in pay schedule. Non-exempt employees are paid bi-weekly and post their hours to Kronos. Because 12 monthly paychecks will now get divided up into 26 bi-weekly paychecks, an employee will take home less pay each month, except for the two months in which they will receive 3 paychecks (i.e. September 2016 and March 2017).

Juan added that the FLSA workgroup is looking at optimum dates for starting the new pay plan. He's been instructed to make this transition employee-centric, minimizing the impact on staff. The Department of Labor's deadline for compliance is December 1, 2016.

Kelly Cona commented that if the pay transition happens December 1, affected employees would get a full monthly paycheck November 30th, then a half paycheck December 23rd. Juan said that is why they are looking at the best date to launch the plan. The team has done a lot of modeling with theoretical data and actual data and all the modeling shows a huge adverse impact to starting the plan on December 1st.

Maggie O'Brien asked if an employee worked overtime during a two-week period, would they work less the following week? Juan said no. According to DOL guidelines, departments can dictate that employees get compensatory time (still at time-and-a-half) before being paid cash overtime. The limits on compensatory time under the USG guidelines are very aggressive. An employee can only earn 60 hours of compensatory time per quarter and it needs to be used up no later than the following quarter. This does not allow for much flexibility, so UGA has asked USG to relax or modify those rules. Under FLSA an employee can accrue up to 240 hours of compensatory time before the employer must pay it out as cash overtime. Maggie pointed out that for many jobs, there's not downtime within the week after earning overtime.

Juan shared that his ultimate goal is to get UGA compliant with the FLSA standards so that UGA will pass a DOL audit.

Juan shared that postdocs/research associates/fellows will have exempt status, and they've shared this already with the research community so they can plan to find ways to bring those

salaries up to the minimum. If a department cannot find budgetary funds to raise salaries for postdocs, then HR will help to reclassify the position to be non-exempt.

Melinda Eades said that under current rules scientists were exempt. She wondered if that would be the case under the new rules. Russ shared that scientists are considered faculty so HR is working with Academic Affairs on those. She shared that her department has a lot of scientists that are not faculty. Russ said that they may be research professionals on the staff side, as well as on the technical side and they may be subject to non-exempt status depending upon their work. He shared that the DOL doesn't determine status based on title but rather on the individual duties and responsibilities. He hopes UGA's classification system is accurate and that its capturing what everyone is doing within a professional title.

Laura Kelley asked about communications. Juan said that if all goes according to plan, HR will start communication in mid-August. Although he doesn't have the luxury to sit down with everyone whose status will change, Juan does want to have group or department discussions. After the first communications, a paycheck calculator will be available online so employees can see how the new pay system will affect them, however it will only show gross salary and not deductions. He's pushed EITS to create a better calculator, but the payroll system is "mature" and unable to yield the needed results.

Melinda Eades asked if departments don't have the money to increase the pay of exempt staff, will there be a reduction in force. Juan believes there will be no reductions in force. Russ added that there is no cost in changing an employee's status from exempt to non-exempt. The only tricky part is reassigning duties. Juan shared that only 49% of a non-exempt employee's duties can be exempt in nature. There are 17 duty tests to determine exemption status.

Juan said that an exempt retiree who comes back to do the same job at reduced hours and thus reduced pay would be considered non-exempt.

Brenda Keen brought up that currently UGA has an hourly bi-weekly pay period and a salaried bi-weekly pay period. She wondered if the two would be condensed into one. Juan said that the hourly pay period is a positive pay reporting structure where an employee reports the actual hours worked, based on clocking in and out. The salaried pay period guarantees the pay of an employee regardless of the hours worked. Most non-exempt employees will be paid through the salaried bi-weekly pay period. HR does not want employees to clock in and out on a daily basis, though USG could impose that on UGA employees, as all the other institutions prefer all employees clock in/out.

Laura Rhicard shared that her department is worried about how the change will affect employees that often work outside of normal hours, like nights and weekends. Juan said that HR would recommend flexible schedules to avoid paying overtime or comp time. HR has tools to help manage schedules.

Maggie O'Brien asked how supplement pay would be affected by the new system. Juan shared that DOL does not allow supplement pay or bonus pay to be considered as part of the annual salary. The supplement pay would be included in the overtime calculation, if overtime needed to be paid.

Laura Kelley wondered about what will happen when newly non-exempt employees are still expected to perform their old exempt duties. Juan shared that he expects employees to come to HR or Employee Relations to report a problem. His larger concern is they will seek resolution

from plaintiff lawyers rather than HR. FLSA has stipulated that the employer will pay all attorney fees if the employee wins the case. He also shared that any department or unit within UGA that fails a DOL audit will be responsible for paying the fines levied by the DOL. UGA will not bail them out. He hopes that's powerful incentive to moderate behavior.

Michael Kanning asked if the review of duties will include what an employee actually does versus their job description. Juan said both will be reviewed. He said he cannot do desk audits for every employee and will rely on representation of department staff to tell him what they do. First HR will determine exempt and non-exempt duties within the job description, make a recommendation as to status, and invite discussion as to why the recommendation is wrong. It boils down to independent judgment, decision-making, apparent authority, and supervision of 2 or more employees. Juan pointed out that student workers do not count towards the 2 full-time employees.

Juan shared that he had high hopes of working with Russ to develop a better classification structure at UGA, but DOL/FLSA stymied him. He needs to meet FLSA guidelines before addressing the classification structure.

Michele Griffin asked if DOL mandated that Kronos be used to report hours. Juan said that the DOL requires that a reporting system be in place, but Kronos has been used at UGA for years. Some employees log into Kronos directly to report their hours. Some departments have a single person log into Kronos to report hours of multiple employees.

Devin Arnold shared his concerns that if an employee is reclassified as non-exempt and loses exempt duties, his or her position is diminished professionally. Juan said it's possible that will occur, but for him it's an equity and fairness issue. He is concerned that employees won't care what the FLSA rules are and will continue to do their old duties whether they are compensated for them or not, and then UGA will fail a DOL audit and will pay fines and penalties.

Juan also mentioned that he's concerned about how duties will be redistributed and salary compression issues. He said he needs to get through the FLSA requirements before addressing salary compression issues. Maybe in February or March 2017.

Maggie O'Brien said that she worries about morale diminishing, and wondered if supplement pay could be used to amend salary compression. Juan said his main focus is whether a position is exempt or non-exempt. Maggie also asked Juan how he will determine percentage of duties. Juan said there is a mapping exercise based on how the job is written.

Michael Lewis asked for clarification about the Position Impact slide from Russ's PowerPoint. He wondered if any of the current 6,271 exempt positions were faculty. Juan said none of them were, but Russ added that some are public service research scientists. Michael asked if the 2,897 positions were definitely exempt positions that would get raises to meet the new minimum. Russ clarified that the 2,897 number was a look at the cost to make salary increases. Michael asked how many job classifications would really change. Russ answered 3,000, roughly, will transition from exempt to non-exempt. Michael wondered if answering email after hours was considered working. Juan said yes. He added that supervisors need to stop sending emails to their staff after hours. They should save late hour emails as drafts and send them as emails the next day.

Melinda Eades asked if supervisor training will be required or optional. Juan said he has recommended that it be required but he hasn't heard back from senior leadership on that.

Stuart Ivy asked if it would be helpful if Staff Council recommended training. Juan felt that it was his responsibility to demonstrate and prove to senior management that it is needed.

Michael Lewis added that he was going to talk to Jere Morehead about this point: he sees a lot of UGA employees that are very happy to work at UGA, and he sees a small subsection of employees that are very unhappy to work at UGA and they are the ones that punch a clock. Michael worries that the change from exempt to non-exempt will generate more unhappy employees, even though FLSA is intended to improve working conditions and compensation.

Juan says he will be out explaining and preaching as much as he can that this is not an adverse event. He conceded that at the end of the day there will be employees who won't believe him and will not be happy.

Mary Moore added one more comment that senior leadership and management often send requests at all times of the night and all days of the week to someone who is exempt, and that person sends it to someone who is non-exempt expecting an answer right away. Juan acknowledges that change has to start at the top. There needs to be a dialog between employees and their supervisors about workload and potential overtime when work assignments come down from the top. Employees need to feel empowered to say, "I just don't see how I can get this done."

Juan closed by saying that he'd love to come back to review how the process played out.

The meeting was informally adjourned at 4:11 pm.

Next Staff Council Executive Committee meeting 3:30 pm Tuesday, August 29, 2016, Conner Hall, Room 105.

Next Staff Council meeting 2:30 pm September 7, 2016, Miller Learning Center, Room 213. Sarah Fraker will visit to discuss OneSource.