

To: OEI Staff
From: Hugo Menendez, Financial Performance Analyst
Date: October 21st, 2016
Re: Fair Labor Standards Act (FLSA) impact on MSCS



Overview

Effective December 1st, 2016, overtime compensation will be updated in accordance to the latest version of the FLSA. The most significant change is that the new annual salary cutline to be an exempt employee, and therefore not qualify for overtime pay, has been raised from \$23,660 to \$47,476. This significant change has the potential to affect many Mayor-Sponsored Charter School’s personnel costs.

Coverage and Exemptions

Coverage: MSCS are covered on an Enterprise Coverage basis. According to the Department of Labor:

*“The FLSA applies to hospitals; institutions primarily engaged in the care of older adults and people with disabilities who reside on the premises; schools for children who are mentally or physically disabled or gifted; federal, state, and local governments; and preschools, **elementary and secondary schools**, and institutions of higher education. Accordingly, employees at these types of institutions (commonly referred to as “named enterprises”) are entitled to minimum wage and overtime protections unless a specific exemption applies.”*

Exemptions: To determine whether executive, administrative and professional employees qualify as exempt, the following tests are applied:

| | Executive | Administrative | Professional |
|----------------------------|---|---|---|
| Salary Basis Test | Employee must be paid on a salary basis | Employee must be paid on a salary basis | Employee must be paid on a salary basis |
| Standard Salary Level Test | \$913 per week (\$47,476 per year for a full-year worker) | 913 per week (\$47,476 per year for a full-year worker) Special salary level for certain academic administrative personnel | 913 per week (\$47,476 per year for a full-year worker) Salary level test does not apply to doctors, lawyers, or teachers |
| Standard Duties Test | The employee’s “primary duty” must be managing the enterprise, or managing a customarily recognized department or subdivision of the enterprise (and managing 2 full-time employees as well). | The employee’s “primary duty” must include the exercise of discretion and independent judgment with respect to matters of significance. | The employee’s “primary duty” must be to primarily perform work that either requires advanced knowledge in a field of science or learning or that requires invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor. |

Source: United States Department of Laborⁱ

Implications for Mayor-Sponsored Charter Schools

Although teachers are not eligible for overtime payments under FLSA, most MSCS employ administrative and professional workers who earn less than \$47,476 annually. The table below shows the number of employees, by MSCS, who would be eligible for overtime compensation:

| School Name | Employees Eligible |
|---|--------------------|
| Excel Center for Adult Learners | 8 |
| Herron High School | 8 |
| Paramount School of Excellence | 8 |
| Vision Academy | 5 |
| Indiana Math and Science Academy - North | 5 |
| Christel House DORS West | 4 |
| Indiana Math and Science Academy - West | 4 |
| Christel House Academy South | 3 |
| Excel Center South | 3 |
| Indiana Math and Science Academy - South | 3 |
| Indianapolis Lighthouse Charter School | 3 |
| Southeast Neighborhood School of Excellence (SENSE) | 3 |
| Avondale Meadows Academy | 2 |
| Tindley Collegiate Academy | 2 |
| Christel House Academy West | 2 |
| Excel Center, Lafayette Square Mall | 2 |
| Indianapolis Metropolitan High School | 2 |
| Andrew J Brown Academy | 1 |
| Charles A Tindley Accelerated School | 1 |
| Tindley Preparatory Academy | 1 |
| Tindley Renaissance Academy | 1 |
| Tindley Summit Academy | 1 |
| Christel House DORS South | 1 |
| Enlace Academy | 1 |
| Indiana College Preparatory School | 1 |
| Indianapolis Lighthouse Charter School - East | 1 |
| KIPP Indy Unite Elementary | 1 |
| Tindley Genesis Academy | 0 |
| Damar Charter Academy | 0 |
| Hope Academy | 0 |
| KIPP Indy College Prep Middle School | 0 |
| Irvington Community School | N/A |
| Marion Academy | N/A |

Conclusions

As the new version of FLSA takes effect on December 1st, it is important that Mayor-Sponsored Charter Schools are ready to implement these changes from a compliance and finance standpoint. Brian and Hugo will include this topic on the agenda for November finance meetings. Any additional ideas on how to efficiently communicate these changes to schools are welcome.

ⁱ United States Department of Labor: <https://www.dol.gov/whd/overtime/final2016/nonprofit-guidance.pdf>