Administrative Professional Classification Overview

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Session Overview

• HR Initiatives
• TMS Position Management Module
• Position Classification
• AP Framework Overview
• Fair Labor Standards
Recruitment Initiatives

Talent Management System (TMS)
- Position Management Module

AP Framework
- Classification of Administrative Professional positions
- Fair Labor Standards Act

Initiative Value
- Creating recruitment structures
- Streamlining efficiencies
- Protection of the University
Position Management Module

• Creates a position documentation tool
  – Library of position descriptions
    » Automated, tracked and stored
    » Classification into AP Framework and SC System

• Better analytics and reports for affirmative action and equal opportunity
  – Faculty and Research positions receive a Position.Version#

• Integrations to Oracle and HireRight
  – HireRight – improves background check processing
  – Oracle – limits duplicate data entry
Position Description Library

- Creates and stores electronic position descriptions
  - Outlines specific responsibilities for each position
    » Duties and percent of effort, salary ranges, supervisory oversight, decision-making factors, minimum and preferred education and experience and competencies
  - Change from job announcements under old process
  - Creates Position.Version#s for all positions
Benefits of Classification

• Classification umbrella for the University
  – Standardized Job Families, Categories, Levels

• Consistency among comparable positions across campus
  – Fair and equitable process across campus

• Structured positions descriptions create stronger applicant pools
  – Improves recruitment and retention of employees
  – Assists search committee with recruitment efforts
  – Disabilities, reasonable accommodations and Workers’ Compensation
Classification Umbrella

• Exemption from State Classified System
  – Authorized titles
  – Grant funding
    – Soft funds, usually from 5-3 and 1-6 accounts

• Designation of AP Positions
  – AP Framework
  – CSU Working Titles
  – Research Series

• Determination of Fair Labor Standards Act status
  – Exempt vs. non-exempt (eligible for overtime)
    » Myth – AP Positions are exempt from overtime requirements
Position
Designation

Classification
Overview

- State Statute/HB 1301
- 100% Grant Funding
- Position Assessment
  ~ New/Existing
  ~ Job Duties (non-technical/non-clerical)
  ~ Degree Requirements
  ~ Decision Making/Independent Judgment
  ~ Matters of Significance/Level of Supervision
- Similar/Like Positions
  ~ Develop consistency across campus

TMS Request Submitted

Positions reviewed based on date received

State Classified

AP Framework
Research Series
State Classified Exemptions

Article XII, Section 13, of the Colorado Constitution

• Exemption Authority is delegated to the President or their designee. The CSU President has delegated this authority to the HR Executive Director.

• The HR Executive Director must adhere to provisions in C.R.S. 24-50-135 as well as the Department of Personnel and Administration’s Technical Guidelines.

• Support of State Classified Positions
  – Myth – CSU is eliminating state classified positions
State Authorized Exemptions

Authorized exemptions from the State Personnel System

- Officers of the university and their executive assistants, employees in professional positions, including the professional employees of a governing board, and any other employees involved in the direct delivery of academic curriculum
- Employees in positions funded by 100% grants or gifts
  - Auxiliary funding
Board of Governor Exemptions

Approved “officers” of the university for purpose of executive assistant exemptions

- President
- Chief of Staff to the President
- Executive Vice President and/or Provost
- Vice Presidents and Vice Provosts
- Assoc/Assist Vice Presidents
- Assoc/Assist Vice Provosts
- Director CO State Forest Service
- Director of Ag Exper Station
- Director of Cooperative Ext
- University Controller
- Deans of Academic Colleges and Graduate School
- Dean of the Library
- Athletic Director
Admin Pro Review Process

- Position Assessment
  ~ Reporting Structure (ORG Chart review)
  ~ Job Duties (non-technical/non-clerical)
  ~ Degree Requirements (defined HB 1301 exemption)
  ~ Decision Making/Independent Judgment
  ~ Matters of Significance/Level of Supervision
- Similar/Like Positions
  ~ Develop consistency across campus

Approve AP position based on HB 1301 exemption and Framework

FLSA Status Review

AP not meeting established guidelines:
Additional information will be requested
Retuned for submittal as State Classified

TMS Request Submitted

AP Position Review

Position Designation
Professional Position - SC

• The exercise of discretion, analytical skill, judgment, personal accountability, and responsibility for creating, developing, integrating, applying, or sharing an organized body of knowledge.
  – Acquired through education or training that meets the requirements for a bachelor's or graduate degree or equivalent specialized experience; and
  – Continuously studied to explore, extend, and use additional discoveries, interpretations and applications, and to improve data, materials, equipment, applications, and methods.
Professional Position - FLSA

Attributes of the position duties and responsibilities:

• Absent of routine clerical or administrative characteristics (bookkeeping, purchasing, data entry, web content editing, general IT duties, helpdesk, etc.),

• Include decision-making, discretion and independent judgment.
  – Independent judgment and discretion involves the comparison and evaluation of possible courses of conduct resulting in the authority to make an independent choice, free from immediate direction, with respect to matters of significance which can impact the department or the University.

• “Learned in-depth knowledge” which is acquired from a specific degree program (bachelor/graduate degree) and relates to the established job duties.
Job Families

- Defined as a large discipline of work that contains multiple job functions. Primary focus is on job duties and responsibilities, not departments or titles.
Job Families

- Academic Services (AC)
- Administrative Services (AD)
- Athletics (AT)
- Bio Pharma (BP)
- Business Services (BU)
- Communications (CM)
- Development (DV)
- Executive (EX)
- Extension (ES)
- Finance and Accounting (FA)

- Health and Safety (HS)
- Health Care (HC)
- Hospitality (HO)
- Human Resources (HR)
- Information Technology (IT)
- Natural Resources (NR)
- Physical Infrastructure (PH)
- Research Services (RS)
- Student Services (SS)
- Veterinary Science (VS)
**AP Framework: Job Categories**

**Technical/Support:** Performs work that is technical in nature or provides administrative or other types of support services.

**Professional/Individual Contributor:** Focus on role and responsibilities within the job family, not managing people, operations or budgets.

**Project/Program Management:** Dedicated to defined projects, initiatives or programs which are designed, implemented and managed with budgetary oversight.

**Management:** Focus on guiding and managing goals, processes and compliance within a division, department or unit through the oversight of staff/teams.

**Executive Leadership:** Leaders with university-wide responsibilities, decision-making, and strategic impact.
AP Framework: Job Categories

Specific Criteria

- Oversight received
- Problem solving
- Interaction/communication
- University impact
- Financial/budget responsibility
- People management
- Typical experience or education required
AP Framework Components

Job Family  Job Category  Job Level

Creates new designations for each AP position known as the Job Code

Finance and Accounting
Professional/Individual Contributor
Level 1
System Title vs. Working Title

**System Title:** FAPI01 Prof/Indiv Contrib I
- Replaces old Generic ORACLE Titles
  - Coordinator, Manager, etc.

**Working Title:** Accountant, Financial Reporting and Analysis
- Used for Business Cards
  - New Executive Director, Director, Associate Director, Assistant Director title requests require review by the President’s Office
Research Series/Postdoc Review

Research Associate/Scientist Guidelines
- Position Assessment
  ~ Job Duties (research support activities)
  ~ Degree/Experience Requirements
  ~ Decision Making/Independent Judgment
  ~ Matters of Significance/Level of Supervision
  ~ Grant Funding (100% gift/grant exemption)
  ~ Similar/Like Positions
Postdoctoral Fellow
- Position Assessment
  ~ Degree Requirements/Detailed Job Duties

Position Classification
- Approve Research Scientist, Associate or Postdoc meeting established guidelines
- FLSA Status Review
- Research Associates not meeting established guidelines
  Additional information requested
Fair Labor Standards Act

Exemption Tests

• Salary Basis Test
  – Pay must be equal to $455 per week ($23,660 a year). Required for full and part-time positions

• Duties Basis Test
  – Exempt duties must be greater than 50% of the overall assigned tasks

Note: Proposed new regulations
- Increase Salary Test thresholds to $970 per week ($50,440 a year)
- Not sure what may comprise the new duties tests
Exemption Test - Duties Basis

- **Primary** duties consist of the performance of office or non-manual work directly related to management policies or general business operations.

- **Consistent** exercise of discretion and independent judgment with respect to matters of significance as opposed to daily routine decisions.
  - The main exemptions fall under Computer, Executive, Professional, Administrative, and Agricultural.
Salary Basis

- Paid $455 per week

Job Duties

- Primary performance of office/non-manual duties related to management policies or general business operations

Job Complexity

- Discretion and independent judgment rather than daily routine decisions with regard to matters of significance

Exemption

- Meets additional criteria for Computer, Executive, Professional, Administrative or Agricultural exemption

Exempt from Overtime

NO

Does not meet requirements for exemption from overtime under FLSA

Non-Exempt Designation

YES

FLSA Exemptions Assessment
FLSA Risks

Risks for noncompliance:

• Federal contract debarment
• Imprisonment for employers if willful and repeated noncompliance
• All position within the same title are subject to review across the entire campus

When the FLSA classification is questionable
THE RULING WILL BE IN FAVOR OF THE EMPLOYEE
FLSA Financial Challenges

Financial impact of wage and hour noncompliance includes:

• Back pay for 2 years or 3 years for willful noncompliance
• Liquidated damages (double back pay) for willful noncompliance
• Punitive damages for retaliatory conduct
• Attorneys’ fees, costs, and pre- and post-judgment interest
• Penalties - up to $1,100 per employee

Remedies under Equal Pay Act include:

• Back pay
• Liquidated damages (double back pay) if willful noncompliance
Interpretation of FLSA

Agricultural Violation:

• Landscaping Firm – Northern Colorado
  – Classification of Landscapers - Exempt

• FLSA Audit
  – Misclassification
    » Growth of Plants vs Purchase of plants

• Fine
  – $127,000
### Recent Wage and Hour Litigation

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<thead>
<tr>
<th>Amount</th>
<th>Organization</th>
<th>Description</th>
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<tbody>
<tr>
<td><strong>$200 million</strong></td>
<td>Farmers Insurance Exchange</td>
<td>To settle claims that it failed to pay overtime to over 200 claims agents it had classified as exempt administrative employees</td>
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<td><strong>$89 million</strong></td>
<td>UBS</td>
<td>To settle claims that it misclassified as many as 25,000 financial advisors as exempt employees</td>
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<td><strong>$65 million</strong></td>
<td>IBM</td>
<td>To settle claims that 32,000 employees had been misclassified as exempt and denied overtime</td>
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<td><strong>$28 million</strong></td>
<td>Siebel Systems, Inc.</td>
<td>To settle claims that it misclassified software engineers as exempt under California law</td>
</tr>
<tr>
<td><strong>$24 million</strong></td>
<td>Computer Sciences Corp.</td>
<td>To settle claims that it misclassified 30,000 technical support workers as exempt administrative and executive employees and failed to pay them overtime</td>
</tr>
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<td><strong>$1 million</strong></td>
<td>42 Fort Collins companies</td>
<td>Improperly exempting employees under the agricultural exemption and failing to pay overtime (Harmony Gardens paid $127,301, Barlow Projects Inc. paid $324,170)</td>
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<td><strong>$500,000</strong></td>
<td>Hofstra Univ.</td>
<td>To settle claims of minimum wage and overtime violations in a class action brought by 256 student employees who allegedly were misclassified as exempt</td>
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<td><strong>$35.5 million</strong></td>
<td>Family Dollar Stores, Inc.</td>
<td>Ordered to pay $35.5 million, not including an anticipated award of up to $10 million in attorneys’ fees, after a federal judge found that it willfully violated the FLSA by misclassifying 1,424 of its store managers as exempt</td>
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<td><strong>$96 million</strong></td>
<td>City of Houston</td>
<td>To settle a class action alleging misclassification of paramedics</td>
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<td><strong>$3.5 million</strong></td>
<td>Univ. of Phoenix</td>
<td>To settle claims alleging Admission Counselors were misclassified</td>
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<tr>
<td><strong>$2 million</strong></td>
<td>Univ. of New Mexico</td>
<td>To settle claims by Student Administrators that they should have been classified as nonexempt and received overtime</td>
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### Off-the-Clock and Meal/Rest Period Cases

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<th>Description</th>
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</thead>
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<td><strong>$87 million</strong></td>
<td>United Parcel Service, Inc.</td>
<td>To settle class action claims that it denied meal and rest breaks to over 26,000 California employees (also had to pay nearly $4 million in administrative costs and taxes)</td>
</tr>
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<td><strong>$5.1 million</strong></td>
<td>Cingular Wireless</td>
<td>To settle claims that the company failed to compensate employees for such preliminary work as powering on computers, logging into the company’s network, and bringing up computer programs necessary for their work</td>
</tr>
<tr>
<td><strong>$1.5 million</strong></td>
<td>Farmer’s Insurance</td>
<td>To settle multiple class actions brought by 3,500 retail store associates in 23 states who alleged the company did not properly compensate them for time worked during meal break periods or for time spent waiting to leave stores after their shifts ended</td>
</tr>
<tr>
<td><strong>$15 million</strong></td>
<td>Dick’s Sporting Goods</td>
<td>To settle multiple class actions brought by 3,500 retail store associates in 23 states who alleged the company did not properly compensate them for time worked during meal break periods or for time spent waiting to leave stores after their shifts ended</td>
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Resources

Information on the AP Framework, State Classified exemptions is available on the HR Website:

- Administrative Professional Job Family Descriptions (http://hrs.colostate.edu/compensation/documents/CSUjobfamilydefinitions.pdf)
- Administrative Professional Job Categories/Levels (http://hrs.colostate.edu/compensation/documents/joblevelsjanuary2014.pdf)
- Exempting Positions from the State Classified System (http://hrs.colostate.edu/compensation/exempting-state-statute.html)
- Information on Fair Labor Standards is available on the US Department of Labor Website: http://www.dol.gov/whd/flsa/
Questions?