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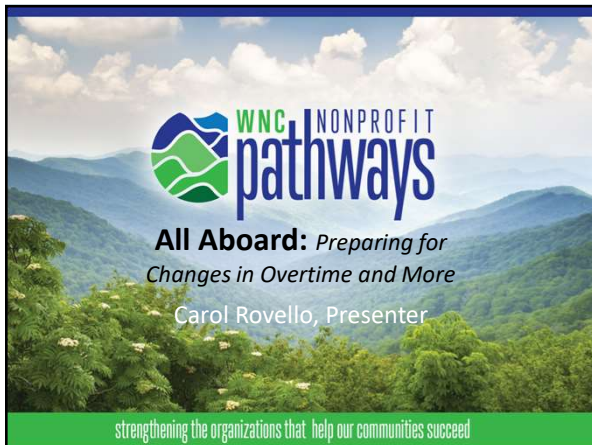
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**Welcome to Today's Program**

We'll discuss common questions about the Fair Labor Standards Act (FLSA) regulations and establish a proactive approach to complying with the upcoming changes.

Content for use only in WNC Nonprofit Pathways Workshops – © 2016, Carol Rovello

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**Our Objectives for you:**

- 1 Review basic "wage and hour" requirements
- 2 Feel better prepared to correctly classify workers
- 3 Understand the upcoming FLSA changes
- 4 Identify next steps for compliance

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**Related Laws - Employment**

- Federal - Fair Labor Standards Act
  - Covered Enterprise
    - At least two employees
    - Annual revenues of \$500,000 (sales made or business done)
    - Nonprofits – considers only activities performed for a business purpose, so most nonprofits are not covered enterprises
  - Covered Employee
    - Engaged in interstate commerce – pretty broadly defined
- State - NC Wage and Hour Act
  - Covered Employee
    - Not employed by a FLSA covered establishment
    - Exemption categories are correlated to the FLSA
- Some Exceptions

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**Can we avoid these laws?**

- Back overtime pay
- Back payroll taxes
- Payroll tax penalties and interest
- Civil penalties of up to \$1,100 for each willful or repeated violation of overtime pay provisions
- Criminal action

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**What is Work Time?**

All time that an employee must be on duty, on the employer’s premises, or at any other prescribed place of work.

Also included is any additional time the employee is “allowed” to work. For example, an employee may voluntarily continue to work at the end of the shift to finish an assigned task or to correct errors. The reason is immaterial. The hours are considered work time and are compensable.


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**What is Work Time?**

|   |   |
|---|---|
| <ul style="list-style-type: none"> <li>• Meals and breaks</li> <li>• Waiting time</li> <li>• Cleaning Up/changing clothes</li> <li>• Lectures, meetings, and training</li> <li>• Paid time off</li> </ul> | <ul style="list-style-type: none"> <li>• Commuting to work</li> <li>• Traveling from site to site during work day</li> <li>• Home to work – special assignment in other city</li> <li>• Out of town travel</li> </ul> |
|---|---|


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**Questions About Basic Requirements**


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### FLSA Classifications

- Nonexempt
  - Subject to overtime provisions of Fair Labor Standards Act (FLSA) or NC Wage and Hour Act
  - Work hours over 40 in the work week are subject to overtime requirement of 1.5 hours per overtime hour worked
  - Must keep record of time worked
- Exempt
  - Not subject to overtime provisions of FLSA
  - Specific exempt categories

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### Most Common Exempt Criteria

- Payment method
- Payment amount - changing
- Primary duty

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### Exempt Categories (white collar)

- Most Likely Applicable**
  - Executive
  - Administrative
  - Professional
    - Learned
    - Creative
  - Highly Skilled Computer
- Less Likely Applicable**
  - Outside Sales
  - Highly Compensated
  - Commission-Based

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## Questions about Exemptions

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## Key FLSA Changes

| Current   | New - Effective December 1st   |
|---|--|
| <ul style="list-style-type: none"> <li>• \$455 minimum pay per week; annualized - \$23,660</li> <li>• Highly compensated employee pay must be at least \$100,000</li> <li>• No automatic increase</li> <li>• All salary or fixed basis</li> </ul> | <ul style="list-style-type: none"> <li>• \$913 minimum pay per week; annualized - \$47,476</li> <li>• Highly compensated employee pay must be at least \$134,000</li> <li>• Automatic increase on 1/1/2020, then every 3 yrs</li> <li>• Can use nondiscretionary bonus/commission for up to 10% of new minimum salary</li> </ul> |

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As  
Soon  
As  
Possible

- Evaluate exempt positions
  - Duties
  - Pay method and amount
  - Do they work over 40 hours in a work week?
- If they don't meet the duties criterion, reclassify to nonexempt.

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### Meets Duties, but Not Pay Minimum

1. Is it close enough that you want to increase the pay?
  - Consider internal equity before doing this.
2. If not, you will reclassify to nonexempt.
  - If they don't work over 40 hours, there will be no budgetary impact.
  - If they typically work over 40 hours, you have several options

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### Options

| Typical Approaches  | Out of the Box   |
|---|--|
| 1. Keep at salary with overtime for > 40 work hrs.                            | 7. Set a lower hourly rate and build in overtime payments so the take home pay remains the same. |
| 2. Limit overtime work.   | 8. Evaluate workloads across positions and redesign to level out work time.                      |
| 3. Redefine the work week.  | 9. Look at the total rewards package.  |
| 4. Make meal breaks unpaid and add a half hour of work time to each work day. | 10. Outsource  |
| 5. Have exempt employees work more hours.                                     | 11. Fluctuating work week  |
| 6. Adjust staffing from FT to PT for some work.                               |  |

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### Other Key Issues

- Job Titles
- Compensation Plan
- Policies/Procedures
- Status/Morale

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### Reclassifying to Nonexempt?

- Have a good communication plan!!!!
  - Still valued
  - Still considered professional
  - Not a demotion
  - Just a change in legal requirement

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### Questions about Options?

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### Wrap-Up

- Applicable Laws
- Exempt and Nonexempt Classifications
- FLSA Changes
- Options and Issues
- Resources available

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## Thanks for Participating!!

Please check your email for a link to help us evaluate this webinar

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