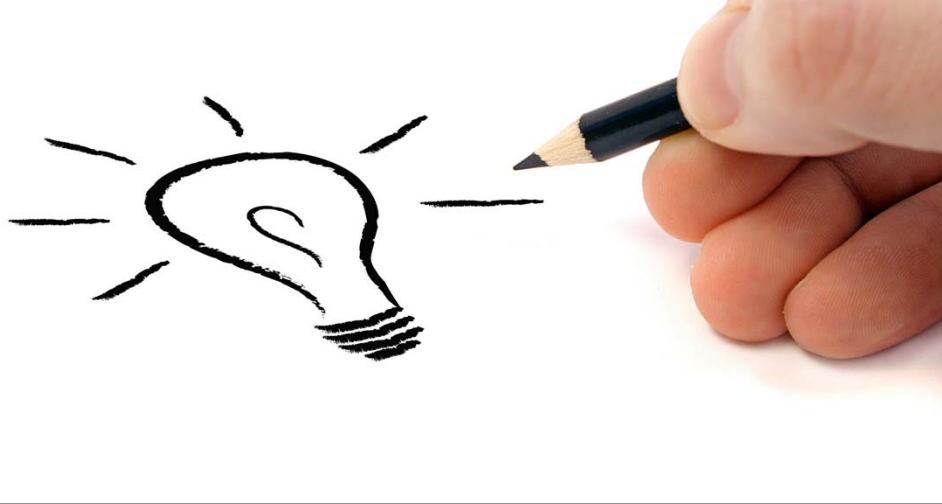


**POSITIVELY RESTRUCTURING AND RETHINKING
STUDENT AFFAIRS WITH FLSA**

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Dawn Ohanessian | Bridgewater College | dohaness@bridgewater.edu
Brent Paterson | Illinois State University | bgpater@ilstu.edu



LEARNING OUTCOME

After participating...

...you will be able to reimagine and restructure your student affairs operations based on the new FLSA regulations.



AGENDA

- Overview of 12/1/16 regulatory changes & injunction
- Recent injunction & where we go from here
- Two methods for moving positively into the future
 - Rethinking the work
 - Restructuring the work
- Where do we go from here?



WHO IS HERE WITH US

- $\frac{1}{4}$ from 2yrs, $\frac{3}{4}$ from 4yrs
- $\frac{1}{4}$ from privates, $\frac{3}{4}$ from public
- Titles include:
 - Dean of Students
 - Sr. Associate of HR
 - VP/CFO
 - VPSA
 - Career Counselor
 - Associate Registrar



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OVERVIEW OF 12/1/16 REGULATORY CHANGES



THE FLSA CHANGES

OLD RULE

- Duties test for executive, administrative, professional (EAP)
- EAP employee threshold of \$23,600

NEW RULE

- Duties test unchanged
- EAP employee threshold of \$47,476
- Threshold increases every 3 years for inflation.



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THE INJUNCTION



LITIGATION & INJUNCTION

- Two lawsuits filed in Eastern District of Texas
 - *Plano Chamber of Commerce et al v. Perez et al.*
 - *State of Nevada et al v. U.S. Department of Labor, et al.*
- Lawsuits consolidated under *State of Nevada*
- Court issued preliminary injunction 11/22/16
- Department of Labor filed appeal with Fifth Circuit Court



KEY FINDINGS OF FEDERAL DISTRICT COURT



- Injunction applies nationwide.
- Congress intended duties test to determine exemption from overtime.
- DOL exceeded authority to raise salary threshold such that it supersedes the duties test.
- DOL lacked statutory authority in creating increase in salary threshold every three years

DEPT OF LABOR RESPONSE TO INJUNCTION

- Salary level test works in tandem with duties tests
- Salary level requirements updated seven times since 1938.
- Comprehensive, inclusive rule-making process utilized

? QUESTIONS

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THE INJUNCTION: THE FUTURE

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WHAT MIGHT BE NEXT?

Fifth Circuit Court Decision

- DOL asked for expedited decision.
- Standard - Abuse of Discretion
- Unlikely Fifth Circuit Court overturns preliminary injunction

POTENTIAL FEDERAL CHANGES

1. New Secretary of Labor could settle lawsuit.
2. New Secretary of Labor could amend Final Rule
3. Congress could approve and President sign Congressional Review Act negating Final Rule

**BE AWARE
OF STATE
LAWS**



California

- Current salary level requirement is \$41,600. Becomes \$43,680 on January 1, 2017.

New York

- Proposed increase to between \$37,830 and \$42,900 effective January 1, 2017.



QUESTIONS

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Methods for Moving Positively into the Future

METHOD ONE: RETHINKING THE WORK



■ RETHINKING THE WORK

If you have implemented FLSA:

- Your staff compensation has likely been positively impacted.
- If FLSA (or a revised version) is implemented, you will be ahead of the game.
- Use this to your advantage when recruiting staff!



■ RETHINKING THE WORK

- Know that there will be growing pains and lessons learned.
- There will be many gray areas to navigate.
- Have a good understanding of the expectations in terms of overtime
- Make sure that everyone is on the same page in terms of priorities and expectations.

■ DELAYING/STOPPING YOUR CHANGE

- You get to continue “business as usual.”
- You don’t have to manage clocking in and out, timecards, etc.
- You can use the preparation work you put into this process for the positive.
- If you can change processes with FLSA, you can change it without!



POLL

How has your institution handled
implementation of FLSA changes?



RETHINKING THE WORK

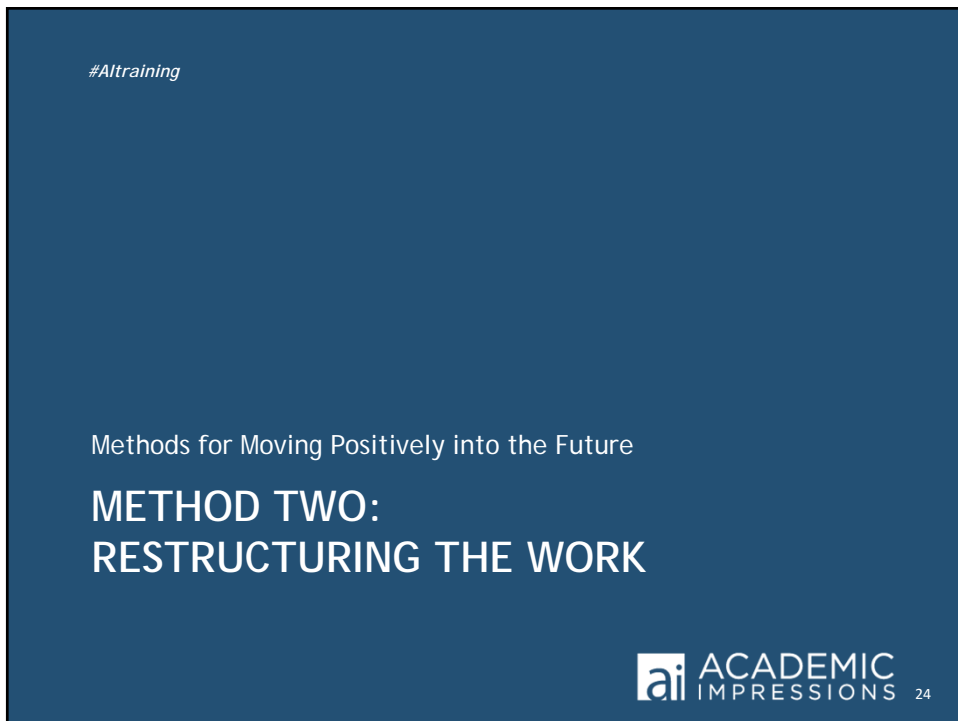
- Focus on institutional/division/department priorities
- Eliminate programs/services not having significant impact
- “Swim in your own lane”
- Can some duties be reassigned?
- Can technology be used to increase efficiency and reduce staff time?
- Should some programs/services/responsibilities be outsourced?





? QUESTIONS

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Methods for Moving Positively into the Future

**METHOD TWO:
RESTRUCTURING THE WORK**

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■ RESTRUCTURING THE WORK

Preparation Work:

- Reviewed job responsibilities
- Aligned supervisor expectations with job responsibilities
- Established reasonable expectations for hours worked in a time period

■ RESTRUCTURING THE WORK

- Stop rewarding staff for working long hours. Reward them for doing the defined job well.
- Teach staff how to prioritize. Sometimes it's not possible to get everything done in 40 hours.
- Consider adjusted work schedules
 - Alternative work schedule
 - Comp time
- Define what is work vs. volunteer

■ CHALLENGES IN RESTRUCTURING THE WORK

- Financial impact
- Professional development opportunities
- Travel
- Potentially treating staff differently
- Responding to crisis
- Staff morale
- Communicating this change to students



■ DON'T LOSE POSITIVE IMPACTS

- Staff rewarded for commitment and time to perform difficult duties
- Aligns Generation X and Millennials' values about work
 - Work/life balance is healthy
 - Reduction in burnout
 - Focus on what is most important and has impact
- Professional development opportunities



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Where do we go from here?

APPLICATION & REVIEW



■ NEXT STEPS: YOU'VE ALREADY CHANGED

Three next steps to take if you've already made the pre-injunction changes/ implementation.

1. You will likely need to continue to make changes to your game plan.
2. Staff to need to be able to prioritize to get the most important work done in 40 hours.
3. Market this as a positive change to your current staff and future candidates.



■ NEXT STEPS: YOU STOPPED OR REVERSED

Three next steps to take if you've stopped or rescinded plans for the new FLSA implementation.

1. Don't lose the work you did to prepare for FLSA!
2. Ensure that position responsibilities are appropriate for a 40 hour work week.
3. Make sure you are prepared in case FLSA (or a revision version) is enacted.

■ NEXT STEPS: SOME CHANGES MADE OR NO CHANGES MADE

Three next steps to take if you've made some or no plans for the new FLSA implementation.

1. Be patient and remember that these changes are out of your control.
2. Ensure that staff feel supported given the uncertainty of your circumstances.
3. Make sure you are prepared in case FLSA (or a revised version) is enacted.



TAKEAWAYS

- We will know when we know.
- Be **flexible**, you may need to make changes along the way
- Take a close look at the responsibilities of your staff - what is reasonable?
- Think about all possibilities when making changes
- Staff need to prioritize
- Help your staff to see the positive aspects of your particular circumstances.



QUESTIONS



EVALUATION

Thank you!

Please remember to complete the event evaluation.
Your comments will help us continually improve the
quality of our programs.

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