

The Administrator's Guide to

The Fair Labor Standards Act

12th Edition



Help Set

The Fair Labor Standards Act

Spring Hill Independent School District makes every attempt to be compliant with all Fair Labor Standards Act provisions. Board Policy DEAB (Legal) addresses the Fair Labor Standards Act under DEA (Legal); which is included in this section. Also included in this section is the FLSA questionnaire “Is Your Department in Compliance with the FLSA”? Every Spring Hill ISD department should be able to answer all of these questions “YES”.

IS YOUR DEPARTMENT IN COMPLIANCE WITH THE FLSA?

Whether you are in finance, payroll, personnel, or another department, compliance with all FLSA provisions is critical to our district. Failure to comply with FLSA could result in a substantial financial liability for the district if subjected to a lawsuit and/or DOL investigation and audit. Please take a few minutes to answer the questions below to determine if your department might have exposure to FLSA violations.

- Does your department have a job description for each employee? Yes No
- Do the job descriptions include the exempt/non-exempt status? Yes No
- Has your department established the workweek in writing? Yes No
- Do your non-exempt employees receive an uninterrupted lunch? Yes No
- Does your support staff, including paraprofessionals sign/clock in and out daily? Yes No
- Do you pay for unauthorized work, but follow-up with disciplinary action? (Unauthorized work is defined as time worked by an employee before their normal schedule even though they were not instructed to work at those times) Yes No
- Do you pay bus drivers for waiting time when they are at an all-day extra-curricular event? Yes No
- Do you pay support staff for on-call duty? Yes No
- Do you track compensatory time for support staff? Yes No
- Does your department accumulate compensatory time at time and one-half if an employee works over 40 hours in a workweek? Yes No
- Does someone in HR or payroll verify that all student workers meet the minimum age and work time requirements? Yes No
- Does your department pay support staff to attend required training that is attended during their normal work schedule and other than their normal schedule? Yes No

Principal/Director Signature

Date

COMPENSATION PLAN
WAGE AND HOUR LAWS

DEAB
(LEGAL)

FAIR LABOR
STANDARDS ACT
MINIMUM WAGE
AND OVERTIME

Unless an exemption applies, a district shall pay each of its employees not less than minimum wage for all hours worked. 29 U.S.C. 206(a)(1)

Unless an exemption applies, a district shall pay an employee not less than one and one-half times the employee's regular rate of pay for all hours worked in excess of 40 in any workweek. 29 U.S.C. 207(a)(1); 29 C.F.R. pt. 778

BREAKS FOR
NONEXEMPT
EMPLOYEES

Rest periods of up to 20 minutes must be counted as hours worked. Coffee breaks or time for snacks are rest periods, not meal periods. 29 C.F.R. 785.18

Bona fide meal periods of 30 minutes or more are not counted as hours worked if the employee is completely relieved from duty. The employee is not relieved from duty if the employee is required to perform any duties, whether active or inactive, while eating. For example, an office employee who is required to eat at his or her desk is working while eating. It is not necessary that an employee be permitted to leave the premises if the employee is otherwise completely freed from duties during the meal period. 29 C.F.R. 785.19

COMPENSATORY
TIME
ACCRUAL

Nonexempt employees may receive, in lieu of overtime compensation, compensatory time off at a rate of not less than one and one-half hours for each hour of overtime work, pursuant to an agreement or understanding arrived at between the employer and employee before the performance of the work. Such agreement or understanding may be informal, such as when an employee works overtime knowing that the employer rewards overtime with compensatory time.

An employee may accrue not more than 240 hours of compensatory time. If the employee's overtime work included a public safety activity, an emergency response activity, or a seasonal activity, the employee may accrue not more than 480 hours of compensatory time. After the employee has reached these limits, the employee shall be paid overtime compensation for additional overtime work.

PAYMENT FOR
ACCRUED TIME

Compensation paid to an employee for accrued compensatory time shall be paid at the regular rate earned by the employee at the time of payment. An employee who has accrued compensatory time off shall be paid for any unused compensatory time upon separation from employment at the rates set forth at 29 U.S.C. 207(o)(4).

USE

An employee who has requested the use of compensatory time shall be permitted to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the district.

COMPENSATION PLAN
WAGE AND HOUR LAWS

DEAB
(LEGAL)

The Fair Labor Standards Act (FLSA) does not prohibit a district from compelling the use of accrued compensatory time.

29 U.S.C. 207(o); Christensen v. Harris County, 529 U.S. 576 (2000); Houston Police Officers' Union v. City of Houston, 330 F.3d 298 (5th Cir. 2003)

EXEMPT
EMPLOYEES

The minimum wage and overtime provisions do not apply to any employee employed in a bona fide executive, administrative, or professional capacity. *29 U.S.C. 213(a)(1)*

ACADEMIC
ADMINISTRATORS

The term "employee employed in a bona fide administrative capacity" includes an employee:

1. Compensated for services on a salary or fee basis at a rate of not less than \$455 per week exclusive of board, lodging, or other facilities, or on a salary basis that is at least equal to the entrance salary for teachers in the district by which employed; and
2. Whose primary duty is performing administrative functions directly related to academic instruction or training in a district or department or subdivision thereof.

"Performing administrative functions directly related to academic instruction or training" means work related to the academic operations and functions in a school rather than to administration along the lines of general business operations. Such academic administrative functions include operations directly in the field of education. Jobs relating to areas outside the educational field are not within the definition of academic administration.

Employees engaged in academic administrative functions include:

1. The superintendent or other head of an elementary or secondary school system, and any assistants, responsible for administration of such matters as curriculum, quality and methods of instructing, measuring and testing the learning potential and achievement of students, establishing and maintaining academic and grading standards, and other aspects of the teaching program;
2. The principal and any vice principals responsible for the operation of an elementary or secondary school;
3. Academic counselors who perform work such as administering school testing programs, assisting students with academic problems and advising students concerning degree requirements; and
4. Other employees with similar responsibilities.

Jobs relating to building management and maintenance, jobs relating to the health of the students, and academic staff such as social workers, psychologists, lunch room managers, or dietitians do not perform academic administrative functions, although such employees may qualify for another exemption.

29 C.F.R. 541.204

SALARY BASIS

To qualify as an exempt executive, administrative, or professional employee, the employee must be compensated on a salary basis, unless the employee is a teacher. Subject to the exceptions listed in the rule, an employee must receive the full salary for any week in which the employee performs any work, without regard to the number of days or hours worked. A district that makes improper deductions from salary shall lose the exemption if the facts demonstrate that the district did not intend to pay exempt employees on a salary basis. *29 C.F.R. 541.600, .602(a), .603*

**PARTIAL-DAY
DEDUCTIONS**

A district employee who otherwise meets the salary basis requirements shall not be disqualified from exemption on the basis that the employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the employee's pay to be reduced or the employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one workday when accrued leave is not used by an employee because:

1. Permission for its use has not been sought or has been sought and denied;
2. Accrued leave has been exhausted; or
3. The employee chooses to use leave without pay.

Deductions from the pay of a district employee for absences due to a budget-required furlough shall not disqualify the employee from being paid on a salary basis except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

29 C.F.R. 541.710

**SAFE HARBOR
POLICY**

If a district has a clearly communicated policy that prohibits improper pay deductions and includes a complaint mechanism, reimburses employees for any improper deductions, and makes a good faith commitment to comply in the future, the district will not lose the deduction unless the district willfully violates the policy by con-

tinuing to make improper deductions after receiving employee complaints.

The best evidence of a clearly communicated policy is a written policy that was distributed to employees before the improper pay deductions by, for example, providing a copy of the policy to employees upon hire, publishing the policy in an employee handbook, or publishing the policy on a district's intranet.

29 C.F.R. 541.603(d)

TEACHERS

The term "employee employed in a bona fide professional capacity" includes any employee with a primary duty of teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in an elementary or secondary school system by which the employee is employed. The salary basis requirements do not apply to teaching professionals.

Exempt teachers include:

1. Regular academic teachers;
2. Teachers of kindergarten or nursery school pupils;
3. Teachers of gifted or disabled children;
4. Teachers of skilled and semi-skilled trades and occupations;
5. Teachers engaged in automobile driving instruction;
6. Home economics teachers; and
7. Vocal or instrumental music instructors.

Those faculty members who are engaged as teachers but also spend a considerable amount of their time in extracurricular activities such as coaching athletic teams or acting as moderators or advisors in such areas as drama, speech, debate, or journalism are engaged in teaching. Such activities are a recognized part of the schools' responsibility in contributing to the educational development of the student.

The possession of an elementary or secondary teacher's certificate provides a clear means of identifying the individuals contemplated as being within the scope of the exemption for teaching professionals. Teachers who possess a teaching certificate qualify for the exemption regardless of the terminology (e.g., permanent, conditional, standard, provisional, temporary, emergency, or unlimited) used by the state to refer to different kinds of certificates. However, a teacher who is not certified may be considered for

Spring Hill ISD
092907

COMPENSATION PLAN
WAGE AND HOUR LAWS

DEAB
(LEGAL)

exemption, provided that such individual is employed as a teacher by the employing school or school system.

29 C.F.R. 541.303

WAGE AND HOUR
RECORDS

A district shall maintain and preserve payroll or other records for nonexempt employees containing the information required by the regulations under the FLSA. *29 C.F.R. 516.2(a)*

PAYDAY LAW
EXEMPTION

The Texas Payday Law does not apply to the state or a political subdivision. *Labor Code 61.003*

COMPENSATION PLAN
WAGE AND HOUR LAWS

DEAB
(LOCAL)

CLASSIFICATION OF
POSITIONS

The Superintendent or designee shall determine the classification of positions or employees as "exempt" or "nonexempt" for purposes of payment of overtime in compliance with the Fair Labor Standards Act (FLSA).

EXEMPT

The District shall pay employees who are exempt from the overtime pay requirements of the FLSA on a salary basis. The salaries of these employees are intended to cover all hours worked, and the District shall not make deductions that are prohibited under the FLSA.

An employee who believes deductions have been made from his or her salary in violation of this policy should bring the matter to the District's attention, through the District's complaint policy. [See DGBA] If improper deductions are confirmed, the District will reimburse the employee and take steps to ensure future compliance with the FLSA.

NONEXEMPT

Nonexempt employees may be compensated on an hourly basis or on a salary basis. Employees who are paid on an hourly basis shall be compensated for all hours worked. Employees who are paid on a salary basis are paid for up to and including a 40-hour workweek.

A nonexempt employee shall have the approval of his or her supervisor before working overtime. An employee who works overtime without prior approval is subject to discipline but shall be compensated in accordance with the FLSA.

WORKWEEK
DEFINED

For purposes of FLSA compliance, the workweek for District employees shall begin at 12:00 a.m. Saturday and end at 11:59 p.m. Friday.

COMPENSATORY
TIME

At the District's option, nonexempt employees may receive compensatory time off, rather than overtime pay, for overtime work. The employee shall be informed in advance if overtime hours will accrue compensatory time rather than pay.

ACCRUAL

Compensatory time earned by nonexempt employees may not accrue beyond a maximum of 80 hours. If an employee has a balance of more than 80 hours of compensatory time, the District shall require the employee to use the compensatory time, or at the District's option, the District shall pay the employee for the compensatory time.

USE

An employee shall use compensatory time within the duty year in which it is earned. If an employee has any unused compensatory time remaining at the end of a duty year, the District shall pay the employee for the compensatory time.

Spring Hill ISD
092907

COMPENSATION PLAN
WAGE AND HOUR LAWS

DEAB
(LOCAL)

Compensatory time may be used at either the employee's or the District's option. An employee may use compensatory time in accordance with the District's leave policies and if such use does not unduly disrupt the operations of the District. [See DEC(LOCAL)] The District may require an employee to use compensatory time when in the best interest of the District.

Handy Reference Guide to the Fair Labor Standards Act



U.S. Wage and Hour Division

US Department of Labor
Wage and Hour Division

Handy Reference Guide to the Fair Labor Standards Act

The Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in federal, state, and local governments.

The Wage and Hour Division (WHD) of the U.S. Department of Labor (DOL) administers and enforces the FLSA with respect to private employment, state and local government employment, and federal employees of the Library of Congress, U.S. Postal Service, Postal Rate Commission, and the Tennessee Valley Authority. The FLSA is enforced by the U.S. Office of Personnel Management for employees of other Executive Branch agencies, and by the U.S. Congress for covered employees of the Legislative Branch.

Special rules apply to state and local government employment involving fire protection and law enforcement activities, volunteer services, and compensatory time off instead of cash overtime pay.

Material contained in this publication is in the public domain and may be reproduced fully or partially, without permission of the Federal Government. Source credit is required only to reproduce any copyrighted material contained herein.

This publication is available online from the Wage and Hour Division website at www.dol.gov/whd

This material will be made available to sensory impaired individuals upon request.

Voice: 1-866-487-9243 (1-866-4US-WAGE)

TDD: 1-877-889-5627

Also, the FLSA does not limit the number of hours in a day or days in a week an employee may be required or scheduled to work, including overtime hours, if the employee is at least 16 years old.

The above matters are for agreement between the employer and the employees or their authorized representatives.

Who is Covered?

All employees of certain enterprises having workers engaged in interstate commerce, producing goods for interstate commerce, or handling, selling, or otherwise working on goods or materials that have been moved in or produced for such commerce by any person, are covered by the FLSA.

A covered enterprise is the related activities performed through unified operation or common control by any person or persons for a common business purpose **and**:

- (1) whose annual gross volume of sales made or business done is not less than \$500,000 (exclusive of excise taxes at the retail level that are separately stated); or
- (2) is engaged in the operation of a hospital, an institution primarily engaged in the care of the sick, the aged, or the mentally ill who reside on the premises; a school for mentally or physically disabled or gifted children; a preschool, an elementary or secondary school, or an institution of higher education (whether operated for profit or not for profit); or
- (3) is an activity of a public agency.

Any enterprise that was covered by the FLSA on March 31, 1990, and that ceased to be covered because of the revised \$500,000 test, continues to be subject to the overtime pay, child labor and recordkeeping provisions of the FLSA.

Employees of firms which are not covered enterprises under the FLSA still may be subject to its minimum wage, overtime pay, recordkeeping, and child labor provisions if they are individually engaged in

interstate commerce or in the production of goods for interstate commerce, or in any closely-related process or occupation directly essential to such production. Such employees include those who: work in communications or transportation; regularly use the mails, telephones, or telegraph for interstate communication, or keep records of interstate transactions; handle, ship, or receive goods moving in interstate commerce; regularly cross state lines in the course of employment; or work for independent employers who contract to do clerical, custodial, maintenance, or other work for firms engaged in interstate commerce or in the production of goods for interstate commerce.

Domestic service workers such as day workers, housekeepers, chauffeurs, cooks, or full-time babysitters are covered if:

- (1) their cash wages from one employer in calendar year 2010 are at least \$1,700 (this calendar year threshold is adjusted by the Social Security Administration each year); or
- (2) they work a total of more than eight hours a week for one or more employers.

Tipped Employees

Tipped employees are individuals engaged in occupations in which they customarily and regularly receive more than \$30 a month in tips. Employers may consider tips as part of wages, but employers must still pay at least \$2.13 an hour in direct wages.

An employer who elects to use the tip credit provision must inform the employee in advance, and must be able to show that the employee receives at least the applicable minimum wage (see above) when direct wages and the tip credit claimed are combined. If an employee's tips combined with his/her direct wages of at least \$2.13 an hour do not equal the minimum hourly wage, the employer must make up the difference. Also, employees are entitled to keep all of their tips, except to the extent that they participate in a valid tip pooling or sharing arrangement.

Exemptions from Overtime Pay Only

- (1) Certain commissioned employees of retail or service establishments; auto, truck, trailer, farm implement, boat, or aircraft sales-workers; or parts-clerks and mechanics servicing autos, trucks, or farm implements, who are employed by non-manufacturing establishments primarily engaged in selling these items to ultimate purchasers
- (2) Employees of railroads and air carriers, taxi drivers, certain employees of motor carriers, seamen on American vessels, and local delivery employees paid on approved trip rate plans
- (3) Announcers, news editors, and chief engineers of certain non-metropolitan broadcasting stations
- (4) Domestic service workers living in the employer's residence
- (5) Employees of motion picture theaters
- (6) Farmworkers

Partial Exemptions from Overtime Pay

- (1) Partial overtime pay exemptions apply to employees engaged in certain operations on agricultural commodities and to employees of certain bulk petroleum distributors.
- (2) Hospitals and residential care establishments may adopt, by agreement with their employees, a 14-day work period instead of the usual seven-day workweek if the employees are paid at least time and one-half their regular rates for hours worked over eight in a day or 80 in a 14-day work period, whichever is the greater number of overtime hours.
- (3) Employees who lack a high school diploma, or who have not attained the educational level of the 8th grade, can be required to spend up to 10 hours in a workweek engaged in remedial reading or training in other basic skills without receiving

time and one-half overtime pay for these hours. However, the employees must receive their normal wages for hours spent in such training and the training must not be job specific.

- (4) Public agency fire departments and police departments may establish a work period ranging from seven to 28 days in which overtime need only be paid after a specified number of hours in each work period.

Child Labor Provisions

The FLSA child labor provisions are designed to protect the educational opportunities of minors and prohibit their employment in jobs and under conditions detrimental to their health or well-being. The provisions include restrictions on hours of work for minors under 16 and lists of hazardous occupations orders for both farm and non-farm jobs declared by the Secretary of Labor to be too dangerous for minors to perform. Complete information on prohibited occupations is available from www.youthrules.dol.gov

Nonagricultural Jobs (Child Labor)

Regulations governing child labor in non-farm jobs differ somewhat from those pertaining to agricultural employment. In non-farm work, the permissible jobs and hours of work, by age, are as follows:

- (1) Youths 18 years or older may perform any job, whether hazardous or not, for unlimited hours.
- (2) Minors 16 and 17 years old may perform any nonhazardous job, for unlimited hours.
- (3) Minors 14 and 15 years old may work outside school hours in various nonmanufacturing, nonmining, nonhazardous jobs under the following conditions: no more than three hours on a school day, 18 hours in a school week, eight hours on a non-school day, or 40 hours in a non-school week. Also, work may not begin before 7 AM, nor

Employers are required to provide reasonable break time for an employee to express breast milk for her nursing child for one year after the child's birth each time such employee has need to express the milk. Employers are also required to provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.

The FLSA requirement of break time for nursing mothers to express breast milk does not preempt state laws that provide greater protections to employees (for example, providing compensated break time, providing break time for exempt employees, or providing break time beyond one year after the child's birth).

Employers are required to provide a reasonable amount of break time to express milk as frequently as needed by the nursing mother. The frequency of breaks needed to express milk as well as the duration of each break will likely vary.

A bathroom, even if private, is not a permissible location under the Act. The location provided must be functional as a space for expressing breast milk. If the space is not dedicated to the nursing mother's use, it must be available when needed in order to meet the statutory requirement. A space temporarily created or converted into a space for expressing milk or made available when needed by the nursing mother is sufficient provided that the space is shielded from view, and free from any intrusion from coworkers and the public.

Only employees who are not exempt from Section 7, which includes the FLSA's overtime pay requirements, are entitled to breaks to express milk. While employers are not required under the FLSA to provide breaks to nursing mothers who are exempt from Section 7, (such as bona fide professional, executive and administrative employees), they may be obligated to provide such breaks under state laws.

Employers with fewer than 50 employees are not subject to the FLSA break time requirement if compliance with the provision would impose an

undue hardship. Whether compliance would be an undue hardship is determined by looking at the difficulty or expense of compliance for a specific employer in comparison to the size, financial resources, nature, and structure of the employer's business. All employees who work for the covered employer, regardless of work site, are counted when determining whether this exemption may apply.

Employers are not required under the FLSA to compensate nursing mothers for breaks taken for the purpose of expressing milk. However, where employers already provide compensated breaks, an employee who uses that break time to express milk must be compensated in the same way that other employees are compensated for break time. In addition, the FLSA's general requirement that the employee must be completely relieved from duty or else the time must be compensated as work time applies.

Terms Used in the FLSA

Workweek A workweek is a period of 168 hours during seven consecutive 24-hour periods. It may begin on any day of the week and at any hour of the day established by the employer. Generally, for purposes of minimum wage and overtime payment, each workweek stands alone; there can be no averaging of two or more workweeks. Employee coverage, compliance with wage payment requirements, and the application of most exemptions are determined on a workweek basis.

Hours Worked Covered employees must be paid for all hours worked in a workweek. In general, "hours worked" includes all time an employee must be on duty, or on the employer's premises or at any other prescribed place of work, from the beginning of the first principal activity of the work day to the end of the last principal work activity of the workday. Also included is any additional time the employee is allowed (i.e., suffered or permitted) to work.

Enforcement Through Investigation

WHD enforcement of the FLSA is carried out by investigators stationed across the country. As WHD authorized representatives, they conduct investigations and gather data on wages, hours, and other employment conditions in order to determine compliance with the law regardless of workers' immigration status. Where violations are found, they will recommend changes in employment practices to bring an employer into compliance.

Enforcement Through Legal Remedies

The FLSA allows the Department of Labor ("Department") or an employee to recover back wages and an equal amount in liquidated damages where minimum wage and overtime violations exist. Generally, a two-year statute of limitations applies to the recovery of back wages and liquidated damages. A three-year statute of limitations applies in cases involving willful violations.

Remedies may be recovered through administrative procedures, litigation, and/or criminal prosecution.

Administrative procedures:

- The Department is authorized to supervise the payment of unpaid minimum wages and/or unpaid overtime compensation owed to any employee(s).
- In lieu of litigation, the Department may seek back wages and liquidated damages, through settlements with employers.
- Civil money penalties may be assessed for child labor violations and for repeat and/or willful violations of FLSA minimum wage or overtime requirements.
 - Employers who willfully or repeatedly violate minimum wage or overtime pay requirements are subject to civil money penalties of up to \$1,100 per violation.

-
-
- Employers who violate the child labor provisions of the FLSA are subject to a civil money penalty of up to \$11,000 for each employee who was the subject of a violation. These penalties may be increased up to \$50,000 for each violation that caused the death or serious injury of an employee who is a minor, and may be doubled to \$100,000 if the violation was determined to be willful or repeated.

Litigation procedures:

- The Department may file suit on behalf of employees for back wages, an equal amount in liquidated damages, and civil money penalties where appropriate.
- The Department may seek a U.S. District Court injunction to restrain violations of the law, including the unlawful withholding of proper minimum wage and overtime pay, failure to keep proper records, and retaliation against employees who file complaints and/or cooperate with the Department.
- The Department may seek an order for payment of civil money penalties from a U.S. Department of Labor Administrative Law Judge where appropriate.
- An employee may file a private suit to recover back wages, an equal amount in liquidated damages, plus attorney's fees and court costs. In such a case, the Department will not seek the same back wages and liquidated damages on that employee's behalf.
- The FLSA provides that DOL may seek a U.S. District Court order to prevent the shipment of the affected goods.

Criminal prosecution:

- Employers who have willfully violated the law may be subject to criminal penalties, including fines and imprisonment.

More detailed information on the FLSA and other laws administered by WHD is available by calling our toll-free help line 1-866-4US-WAGE (1-866-487-9243). Additional information is available on WHD's website at www.dol.gov/whd

Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)

In accordance with the provisions of the SBREFA, the Small Business Administration established a National Small Business and Agriculture Regulatory Ombudsman and 10 Regional Fairness Boards to receive comments from small entities about federal agency enforcement actions. The Ombudsman annually evaluates enforcement activities and rates each agency's responsiveness to small entities. Small entities wishing to comment on WHD enforcement activities may call 1-888-REG-FAIR (1-888-734-3247), or write the Office of the National Ombudsman, U.S. Small Business Administration, 409 3rd Street, SW, MC2120, Washington, DC 20416-0005, or visit the Ombudsman's Office online at www.sba.gov/ombudsman

The right to file a comment with the Ombudsman is in addition to any other rights a small entity may have, including the right to contest the assessment of a civil money penalty. Filing a comment with the Ombudsman neither extends the maximum time period for contesting the assessment of a penalty, nor takes the place of filing the response required to secure an administrative hearing on a penalty. WHD does not consider filing of a comment with the Ombudsman as a factor in determining how to resolve issues raised during a compliance action.

Equal Pay Provisions

The equal pay provisions of the FLSA prohibit gender-based wage differentials between men and women employed in the same establishment who perform jobs that require equal skill, effort, and responsibility

and which are performed under similar working conditions. These provisions, as well as other statutes prohibiting discrimination in employment, are enforced by the Equal Employment Opportunity Commission. For more detailed information, call 1-800-669-4000 or visit www.eeoc.gov

FOR ADDITIONAL INFORMATION

Call the Wage and Hour Division at:

1-866-487-9243 (toll-free)

or visit our website www.dol.gov/whd