Memorandum to Presidents

Date: March 20, 1986

From: Offices of the University Counsel and Vice Chancellor for Legal Affairs and Associate Vice Chancellor for Employee Relations and Personnel

Subject: Fair Labor Standards Act/Recent Developments

To: Presidents, State-Operated Campuses
    Presidents, Community Colleges

This memorandum updates the September 25, 1985 Memorandum to Presidents (Vol. 85, No. 13) to reflect recent developments relating to the Fair Labor Standards Act and its applicability to state and local governments.

Congress recently enacted the Fair Labor Standards Amendments of 1985 (Public Law 99-150). Two provisions of the legislation are of particular interest to State University:

1. The effective date for state and local government compliance with the overtime provisions of the Fair Labor Standards Act is moved forward to April 15, 1986.

2. Compensatory time off may be used by state and local government employers in lieu of overtime pay under certain conditions and in prescribed amounts.

State and local governments are relieved of liability for overtime under the Act through April 14, 1986. Starting April 15, 1986, State University, like all other governmental entities, must be in compliance with the minimum wage and overtime provisions of the Fair Labor Standards Act. The new law does allow state and local governments to postpone actual payment of overtime until August 1, 1986 without penalties.

The amendments also permit the use of compensatory time off in lieu of cash overtime compensation in certain situations. State University's ability to implement this new
compensatory time provision is limited by its existing collective bargaining agreements and the requirements of State law. In essence, the University now may use compensatory time off in lieu of overtime only for United University Professions (UUP) and Management/Confidential (M/C) employees in the professional service. Personnel directors at the State-operated campuses will receive a separate memorandum containing detailed information about the compensatory time restrictions in the Act.

The Fair Labor Standards Amendments of 1985 direct the Secretary of Labor to promulgate implementing regulations before April 15, 1986. We currently are reviewing proposed regulations.

One additional development to report is the formation of an interagency task force, comprising representatives from the Department of Civil Service, the Division of the Budget, and the Governor's Office of Employee Relations, to evaluate the application of the Fair Labor Standards Act to State employees. We expect to receive further information from the task force in the next month about implementation of the Act for all State agencies.

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cc: Personnel Officers, State-Operated Campuses
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Copies for information only sent to:

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