

USC Response to AB 736

Recent California legislation, AB 736, amended the California Labor Code to permit private, non-profit colleges and universities in California to treat part-time, or “adjunct,” faculty at their institutions as exempt (salaried) employees.

Under the new law, an adjunct or part-time faculty member may be classified as exempt if the faculty member meets both: the existing professional exemption duties test AND either: (i) the traditional salary basis test for exemption; OR (ii) a new salary basis test for exemption provided by the new law.

- To meet the existing **professional duties test** for exempt status an employee must: (1) be engaged in an occupation commonly recognized as a learned or artistic profession, and (2) customarily and regularly exercise discretion and independent judgment in the performance of their duties.
- To meet the **salary basis test** provided under AB 736 for exempt status an adjunct or part-time faculty must be paid:
 - at least twice the minimum wage for full-time employment --- For 2021, an exempt employee must earn at least \$1,120 per week (the equivalent of \$58,240 a year) OR
 - at least a specified amount per course or laboratory in accordance with rates set forth below*

Only faculty who are providing instruction for a course or laboratory are eligible for this exemption. We have two potentially impacted categories of faculty – adjuncts and part-time faculty (see attached).

Exempt status is mandatory for all faculty holding part-time faculty job codes beginning in fall 2021.

Exempt status is likely to appeal to our part-time faculty colleagues as it would eliminate the need for time-tracking, provide them the needed flexibility to manage their own workload, and afford their position the respect that it is traditionally granted.

Since adjuncts have full-time positions outside the university and typically work limited hours for USC, they will not be transitioned to exempt status. They should remain hourly, non-exempt employees.

*This sets university wide minimum salaries for these positions in 2021 as follows, reflecting a minimum salary of \$126/classroom hour:

- \$8,064 for a 4-unit course
- \$6,048 for a 3-unit course

- \$4,032 for a 2-unit course
- \$2,016 for a 1-unit course

Please note that these per-course or per-laboratory minimum rates represent compensation for all course-related work only (e.g., classroom or laboratory time, preparation, grading, office hours, and other work related to that course or laboratory). Employees must be compensated separately for other non-course-related work—service work or administrative duties, by way of example. Because these are minimum rates, exempt part-time faculty may of course be paid more.

The minimum rates increase each year according to a schedule provided by law. For example, the rates in calendar year 2022 will be as follows, reflecting a minimum salary of \$135/classroom hour:

- \$8,640 for a 4-unit course
- \$6,480 for a 3-unit course
- \$4,320 for a 2-unit course
- \$2,160 for a 1-unit course

Since we are not including our adjunct faculty in the requirement for exempt status, it is even more important than usual for deans to verify that faculty working less than full-time have the correct job code classification. To help, we are asking that:

- Each faculty member classified as an adjunct be asked to **sign an attestation** that they meet the requirements of this position
- As some faculty have suggested that they do not know their job code, we need **clear communication** to all our part-time faculty about the distinction between part-time and adjunct faculty at USC.
- If you have adjuncts who are currently being paid at or above levels that meet the salary basis test, then they too may be classified as exempt.