**Smartphone Use for Nonexempt Employees**

**What You Need to Know...**

* Any work related to a non-exempt employee’s job that is done at home or offsite is compensable, including answering work-related emails using any personal computing device. i.e. – PC, smart phone, tablet, etc.
* When a supervisor knows or should have known that work is being done and permits the employee to do so, the work must be counted toward overtime.
* An employee cannot volunteer to work “off the clock” and is not permitted to waive their rights under the FLSA.
* Non-exempt employees who choose to access their work email through personal computing devices such as smart phones may not do so during non-working hours without prior approval from an appropriate supervisor. Any time spent accessing, reading and/or responding to work-related e-mail or working on other electronic work materials is compensable under the FLSA.
* The supervisor’s responsibility is to ensure that all non-exempt employees understand that they are not to read and respond to work-related emails during nonworking hours without prior approval in order for it not to count toward overtime.
* Infrequent and insignificant periods of time outside scheduled working hours, which cannot as a practical matter be precisely recorded for payroll purposes is not compensable in that the time is considered de minimis. This rule applies where there are uncertain and indefinite periods of time involved, a few seconds or minutes in duration, and where the failure to count such time is justified by business necessity (i.e., compliance requirements necessary to protect the health and safety of our campus).