

FLSA Exemption Test Worksheet (Completed by Human Resources)

Executive, Teaching, Professional, Administrative, and Computer Exemption Tests

Federal law provides that certain PSU employees may be exempt from the overtime wage provisions of the Fair Labor Standards Act (FLSA) under the following exemption categories: EXECUTIVE, TEACHING, PROFESSIONAL, ADMINISTRATIVE, or COMPUTER.

In order for an employee to qualify as being EXEMPT from overtime, and thus not be required to be paid at one and one-half his or her regular salary for hours worked in excess of 40 per workweek, an employee must qualify under one of the exemption categories.

The Office of Human Resources determines the exemption status of each position on campus. Exemption status is determined by completing the following test based on each position's duties, level of responsibility and decision making authority, and the employee's base pay rate.

Employee Name	CWID	Date Form Completed
Position Title	Position Number	Position Employee Class
Department	Form Completed By	Date Position Description Last Updated

HR USE ONLY	
Position is:	<input type="checkbox"/> Exempt Executive <input type="checkbox"/> Exempt Teaching Professional <input type="checkbox"/> Exempt Learned Professional <input type="checkbox"/> Exempt Academic Administrative <input type="checkbox"/> Non-exempt
	<input type="checkbox"/> Exempt Creative Professional <input type="checkbox"/> Exempt Administrative <input type="checkbox"/> Exempt Computer

INSTRUCTIONS

1. Read the criteria for each exemption category: Executive, Professional (teaching, learned or creative), Administrative, and Computer.
2. Place an "x" in each box that applies to this position. You may check boxes in more than one exemption category. Give specific and detailed answers to the questions asked.
3. After checking the relevant boxes and providing detailed answers, please make a recommendation in the exempt or non-exempt box.
4. Please note that the employee must also meet the salary basis test to be exempt under the FLSA (for all except the Teaching Professional exemption). If the employee in the position earns less than the required minimum salary for exemption (\$455 per week or \$23,600 annually), the employee is considered non-exempt and is subject to the overtime provisions of the FLSA even if the position's duties meet the duties test for exemption.

EXECUTIVE

To be classified as an FLSA exempt executive employee, the employee must hold a position requiring that they regularly perform duties which consist of the management of a company or customarily recognized department or subdivision, regularly supervise and direct two or more FTE employees, and must have authority to hire or fire other employees or their suggestions as to such are given particular weight, and the employee must be paid a weekly salary of \$455 or higher.

<p>1. Does the employee receive a salary of at least \$455 per week?</p>	<p><input type="checkbox"/> YES <input type="checkbox"/> NO If no, stop. The employee is not FLSA exempt.</p>
<p>2. Does the employee's position's primary duty consist of managing a department or subdivision, which has a permanent status and continuing function?</p> <p>Managing includes activities such as:</p> <ul style="list-style-type: none"> • Interviewing, selecting, training and disciplining employees • Setting and adjusting pay and work hours • Planning and apportioning work among employees • Maintaining production or sales records • Appraising employee' productivity and efficiency • Handling employee complaints and grievances • Determining the techniques to be used; the type of materials, supplies, machinery, equipment or tools to be used; or the merchandise to be bought, stocked and sold • Providing for the safety and security of the employees or the property • Planning and controlling the budget • Monitoring or implementing legal compliance measures <p><i>It is a good "rule of thumb" for the primary duty to take about 50% of the worker's time. However, time alone is not the only consideration. Other factors to consider include:</i></p> <ul style="list-style-type: none"> • <i>The relative importance of the exempt duties compared to the nonexempt duties.</i> • <i>The amount of time spent performing exempt duties.</i> • <i>The worker's freedom from direct supervision.</i> • <i>The relationship between the worker's salary and wages paid to other employees for the same kind of exempt work.</i> 	<p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>
<p>3. Does the employee customarily and regularly direct the work of two or more FTE employees or their equivalent?</p>	<p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>
<p>4. Does the employee have the authority to hire or fire other employees or are the employee's suggestions and recommendations as to hiring, firing, advancement, promotion or any other change of status of other employees given particular weight? <i>("Particular weight" means this requirement is defined as a responsibility in the employee's job duties (Position Description) and it is not an occasional requirement).</i></p>	<p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>

Additional Information

A common question that arises under the executive exemption is how to classify employees who perform both exempt management duties and nonexempt duties. The regulations state that a manager who performs both exempt and nonexempt work at the same time is not automatically disqualified from the executive exemption. Generally, the exempt executives themselves make the decision regarding when to perform nonexempt duties. In contrast, the nonexempt employee generally is directed by a supervisor to perform the exempt work or performs the exempt work for defined time periods. For example, if an assistant manager’s primary duty is management, performing work such as serving customers, cooking food, stocking shelves and cleaning the establishment does not preclude the exemption. An assistant manager can supervise employees and serve customers at the same time without losing the exemption. In contrast, a relief supervisor or working supervisor whose primary duty is performing nonexempt work on the production line in a manufacturing plant does not become exempt merely because he occasionally has some responsibility for directing the work of other nonexempt production line employees when, for example, the exempt supervisor is on vacation.

If the answer to any of these questions is “no”, then the employee does not meet the “Executive” exemption requirements. However, they may meet either the “Administrative” or “Professional” exemption requirements.

Do you recommend that this position be exempt from the overtime provisions of the Fair Labor Standards Act?

Yes **No**

If the answer is “Yes”, please provide justification below:

PROFESSIONAL - Teaching

To be classified as an FLSA exempt Teaching Professional, the only exemption category where the employee is not subject to a weekly minimum salary, the employee must be employed in a bona fide professional capacity in a position with the primary duties of teaching, tutoring, instructing or lecturing in the activity of imparting knowledge; requiring advanced, very specialized education and training, or a prolonged course of specialize intellectual instruction; and, who is employed and engaged in this activity as a teacher in an educational establishment by which the employee is employed.

<p>1. Does the employee’s primary duty meet all of the following requirements for a “teaching” professional?</p> <ul style="list-style-type: none"> • <i>Employed in a bona fide professional capacity in a position with the primary duties of teaching, tutoring, instructing or lecturing in the activity of imparting knowledge.</i> • <i>Employed and engaged to perform in this activity as a teacher in an educational establishment by which the employee is employed.</i> • <i>The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.</i> 	<p><input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p><i>If no, stop. The employee does not qualify for FLSA exemption under this category.</i></p>	
<p>2. Does the employee hold academic rank, instructional adjunct rank, or instructional graduate assistant rank?</p>	<p>List Rank:</p>	
<p>3. Please specify the number of student credit hours expected to be taught each academic year or term.</p>	<p><input type="checkbox"/> Per Year <input type="checkbox"/> Per Term</p>	<p>Student Credit Hours:</p>

If the answer to any of these questions is “no”, then the employee does not qualify for exemption under this category and must be paid in accordance with the Fair Labor Standards Act (FLSA).

Do you recommend that this position be exempt from the overtime provisions of the Fair Labor Standards Act?

Yes No

If the answer is “Yes”, please provide justification below:

PROFESSIONAL - Learned or Creative

To be classified as an FLSA exempt Learned or Creative Professional employee, the employee must be paid a weekly salary of \$455 or higher; hold a position with duties requiring advanced or very specialized education and training and that require the exercise of discretion and judgment, or; consist of work requiring invention, imagination or talent in a recognized field of artistic or creative endeavor.

<p>1. Does the employee receive a salary of at least \$455 per week?</p>	<p><input type="checkbox"/> YES <input type="checkbox"/> NO If no, stop. The employee is not FLSA exempt.</p>
<p>2. Does the employee’s primary duty meet all of the following requirements for a “learned” professional?</p> <ul style="list-style-type: none"> • <i>The employee performs work requiring advanced knowledge, defined as work which is predominantly intellectual in character. Not work involving routine mental, manual, mechanical, or physical work.</i> • <i>The work requires the consistent exercise of discretion and judgment.</i> • <i>The advanced knowledge must be in a field of science or learning.</i> • <i>The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction. (Accounting, Actuarial Computation, Architecture, Biological Sciences, Chemical Sciences, Engineering, Law, Medicine, Pharmacy, Physical Sciences, Teaching, Theology)</i> 	<p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>
<p>3. Does the employee’s primary duty qualify for a “creative” professional because it requires invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor?</p> <ul style="list-style-type: none"> • <i>The exemption of the creative professional is highly dependent on the degree of invention, originality or talent that is exercised by the employee. As such, the exemption has to be done on a case-by-case basis (rather than by the job classification).</i> • <i>The work that is performed typically has to be highly conceptual where only a concept may be the starting point and must require a high degree of originality.</i> • <i>The creative professional exemption generally applies to actors, musicians, composers, painters, essayists, and screenwriters.</i> 	<p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>

Typical Learned Professional Exempt Jobs:

- Lawyers
- Teachers
- Accountants
- Pharmacists
- Engineers
- Actuaries
- Chefs
- Athletic trainers
- Licensed funeral directors or embalmers

Typical Learned Professional Nonexempt Jobs:

- Accounting clerks and bookkeepers who normally perform a great deal of routine work
- Cooks who perform predominantly routine mental, manual, mechanical or physical work
- Paralegals and legal assistants
- Engineering technicians

If the answer to questions number 1 and 2 or 1 and 3 is “no”, then the employee is non-exempt and must be paid in accordance with the Fair Labor Standards Act (FLSA).

Do you recommend that this position be exempt from the overtime provisions of the Fair Labor Standards Act?

Yes **No**

If the answer is “Yes”, please provide justification below:

ADMINISTRATIVE

To be classified as an FLSA exempt administrative employee, the employee must be paid a weekly salary of \$455 or higher; hold a position where primary position duties require the exercise of discretion and independent judgment and the performance of office or non-manual work related to the management policies or general business operations of the employer or the employer's customers.

<p>1. Does the employee receive a salary of at least \$455 per week?</p>	<p><input type="checkbox"/> YES <input type="checkbox"/> NO If no, stop. The employee is not FLSA exempt.</p>
<p>2. Does this employee perform work that is directly related to assisting with the running of the business or act as an advisor or consultant to the employer's clients or customers?</p> <p><i>Consider the following factors and definitions when determining whether an employee performs administrative duties:</i></p> <ul style="list-style-type: none"> • <i>Administrative operations of the business include advising management, planning, negotiating, representing the company, purchasing, promoting sales, and business research and control.</i> • <i>These activities frequently include: tax, finance, accounting, audit, insurance, quality control, purchasing, advertising, marketing, research, safety and health, personnel management, employee benefits, labor relations, public relations, legal and regulatory, and government relations.</i> • <i>Administrative duties do not include routine or structured tasks such as bookkeeping, data tabulation, or clerical duties.</i> 	<p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>
<p>3. Does the employee customarily and regularly exercise discretion and independent judgment related to management policies or the general business operations of the employer or the employer's customers?</p> <p><i>Two or 3 of the following must apply to answer "yes" to this criteria:</i></p> <ul style="list-style-type: none"> • <i>Authority to formulate, affect, interpret, or implement management policies or operating practices</i> • <i>Carries out major assignments in conducting the operations of the business</i> • <i>Performs work that affects business operations to a substantial degree</i> • <i>Authority to commit the employer in matters that have significant financial impact</i> • <i>Authority to waive or deviate from established policies and procedures without prior approval, and other factors set forth in the regulation</i> • <i>Authority to negotiate and bind the company on significant matters</i> • <i>Provides consultation or expert advice to management</i> • <i>Involved in planning long- or short-term business objectives</i> • <i>Investigates and resolves matters of significance on behalf of management</i> • <i>Represents the company in handling complaints, arbitrating disputes or resolving grievances</i> 	<p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>

Typical Administrative Exempt Jobs:

- An employee who leads a team of other employees assigned to complete major projects
- Executive assistant or administrative assistant to a business owner or senior executive of a large business who has been delegated authority regarding matters of significance
- Management consultants who study the operations of a business and propose changes in organization
- Human resource managers who formulate, interpret or implement employment policies generally meet the administrative duties requirements

Typical Administrative Nonexempt Jobs:

- Ordinary inspection work involving well-established techniques and procedures
- Examiners and graders who perform work involving comparison of products with established standards
- Comparison shoppers who merely report the prices at a competitor’s store
- Public sector inspectors or investigators
- Personnel clerks who “screen” applicants to obtain data regarding minimum qualifications and fitness for employment generally are not exempt administrative employees

EDUCATIONAL ESTABLISHMENTS AND ADMINISTRATIVE

In order for an employee to be considered exempt as an administrative employee within an educational establishment the following criteria must be met:

Primary duty: performs administrative functions directly related to academic instruction or training in an educational establishment. Academic administrative functions include operations directly in the field of education, and do not include jobs relating to areas outside the educational field.

Additional Information

Employees engaged in academic administrative functions include:

- Superintendent or other head of an elementary or secondary school system
- 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
- Principal and any vice-principals responsible for the operation of an elementary or secondary school
- Department heads in institutions of higher education responsible for the various subject matter departments
- Academic counselors and other employees with similar responsibilities

Having a primary duty of performing administrative functions directly related to academic instruction or training in an educational establishment includes, by its very nature, exercising discretion and independent judgment with respect to matters of significance.

If the answer to any of these questions is “no”, then the employee is non-exempt and must be paid in accordance with the Fair Labor Standards Act (FLSA).

Do you recommend that this position be exempt from the overtime provisions of the Fair Labor Standards Act?

Yes No

If the answer is “Yes”, please provide justification below:

COMPUTER

To be classified as an exempt computer employee, an employee must be paid an hourly rate of \$27.63 or \$23,600 annual or higher; hold a position where primary position duties require work in computer systems analysis, computer programming, software engineering or similarly skilled work in the computer field.

1. Does the employee receive a salary of at least \$455 per week or, if compensated on an hourly basis, a rate not less than \$27.63 an hour?	<input type="checkbox"/> YES <input type="checkbox"/> NO If no, stop. The employee is not FLSA exempt
2. Does the employee's primary duty consist of the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications?	<input type="checkbox"/> YES <input type="checkbox"/> NO
3. Does the employee's primary duty consist of the design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications?	<input type="checkbox"/> YES <input type="checkbox"/> NO
4. Does the employee's primary duty consist of the design, documentation, testing, creating, or modification of computer programs related to machine operating systems?	<input type="checkbox"/> YES <input type="checkbox"/> NO
5. Does the employee's primary duty consist of a combination of the aforementioned duties, the performance of which requires the same level of skills?	<input type="checkbox"/> YES <input type="checkbox"/> NO

Typical Computer-Related Nonexempt Jobs:

- The computer employee exemption does not include employees engaged in the manufacture or repair of computer hardware and related equipment.
- Employees whose work is highly dependent upon, or facilitated by, the use of computers and computer software programs (e.g., engineers, drafters and others skilled in computer-aided design software), but who are not primarily engaged in computer systems analysis and programming or other similarly skilled computer-related occupations identified in the primary duties test described above, are also not exempt under the computer employee exemption.

If the answer to any of these questions is "no", then the employee is non-exempt and must be paid in accordance with the Fair Labor Standards Act (FLSA).

Do you recommend that this position be exempt from the overtime provisions of the Fair Labor Standards Act?

Yes No

If the answer is "Yes", please provide justification below: