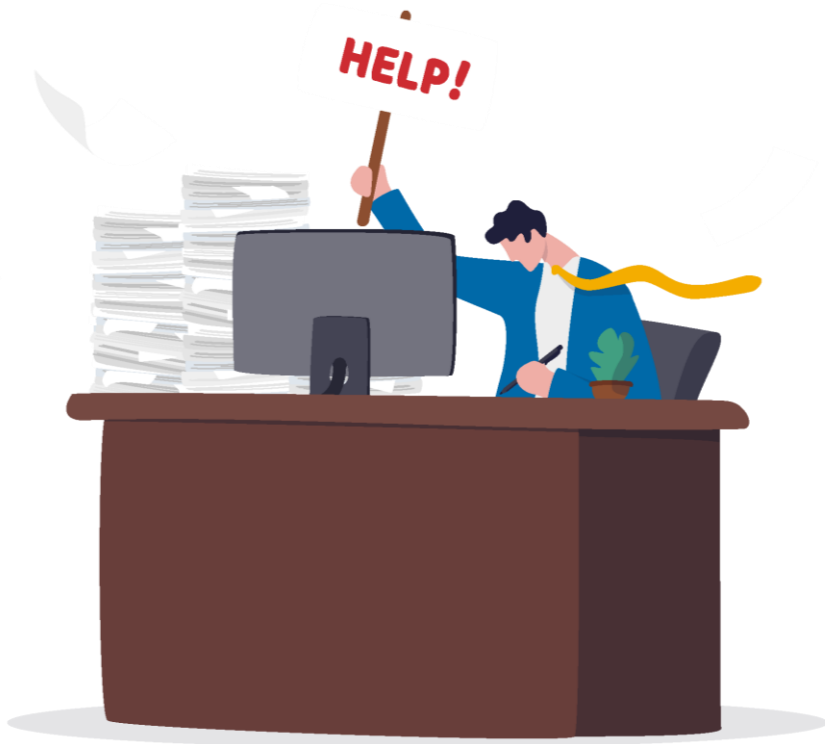








QUADRENNIAL TRAINING 2025

Overview of the Fair Labor Standard Act (FLSA)



Although every effort has been made to provide a complete and compliant review and presentation, The General Council on Finance and Administration **does not provide legal advice.** FLSA issues are complex, and such advice should be sought for specific issues.

Current Federal Wage & Hour Law

- The Fair Labor Standards Act (FLSA) is the federal wage and hour law.
- The FLSA has four basic requirements:
 -  Employees must be paid at least a federal minimum wage (\$7.25) for all hours worked. **The minimum wage may be higher in some states, the higher wage prevails.**
 -  Employees must be paid an overtime rate (at time and a half the regular rate of pay) for all hours worked over 40 hours in a **workweek**.
 -  Record keeping.
 -  Child labor provisions.

Current Federal Wage & Hour Law

- FLSA doesn't regulate:
 - Vacation Pay
 - Sick Pay
 - Holiday Pay
- Employers determine whether to offer these benefits.



Current FLSA Regulations & Requirements

Who Has To Comply With The FLSA?

Enterprise Coverage

- Employees who work for certain businesses or organizations are covered by the FLSA. These enterprises, which must have at least two employees, are:



Those that have an annual dollar volume of sales or business done of at least \$500,000.



Hospitals, businesses providing medical or nursing care for residents, schools and preschools, and government agencies.

Individual Coverage

- **Employees are protected under the FLSA if their work regularly involves them in interstate commerce. This could include:**



Making calls
across state
lines



Ordering items
from other
states



Opening mail or
packages from other
states



Sending or receiving emails
from individuals in other states

Overtime Requirement

- **Exempt Employees – Not eligible for overtime pay**
- **Non-Exempt Employees – Eligible for overtime pay**



Must track their time on a daily basis.



Must be paid time and a half for any hours worked over 40 in a workweek.

- Workweeks must be set and communicated to all employees (i.e. 12am Monday – 11:59pm Sunday).
- Vacation, Sick, Holiday, or PTO time do not count towards overtime calculation.

Overtime

Requirement

When overtime is worked by a Non-Exempt employee:

- Pay rate = 1.5 times the normal rate of pay.
- Employees should receive approval to work overtime.

Travel

- When Non-Exempt staff travel, they should track all work time.
- Staff should not be compensated for their normal commute.

Recordkeeping Under The FLSA

- **Timekeeping for hourly staff members must include hours worked each day.**



Employers may use any timekeeping method they choose, such as a time clock, online timekeeping system, or having the employees manually track their clock in/clock out times.



Any method is acceptable, as long as it is complete and accurate.

- **FLSA doesn't require breaks or meal periods.**
- **Payroll records must be kept for three years.**
- **Timecards must be kept for two years.**

Exempt or Non-Exempt status is most commonly based on three factors:

What kind of work they
do?

Job Duties Test

AND

How are they paid?

Salary Basis Test

AND

How much they are
paid?

\$684 per week

Job Duties Test

Executive Exemption

01

The primary duties of the position must be managing the organization, department, or subdivision of the organization.

02

The employee must regularly direct the work of at least two or more other full-time employees or their equivalent.

03

The employee must have hiring and termination authority, or their recommendations related to employment decisions must be given weight.

Administrative Exemption

01

The employee's primary duty must be the performance of office or non-manual work directly related to the management or general business operations of the employer or employer's customers.

02

The employee's primary duty includes exercise of discretion and independent judgment with respect to matters of significance.

03

Examples include work in functional areas such as accounting, tax, finance, human resources, benefits , computer networking, database administration, legal compliance, etc.

Professional Exemption

01

The employee's primary duty must be the performance of work requiring advanced knowledge, defined as work which is predominantly intellectual in character and which includes work requiring the consistent exercise of discretion and judgment.

02

The advanced knowledge must be in a field of science or learning.

03

The advanced knowledge must be acquired by a prolonged course of specialized intellectual instruction.

04

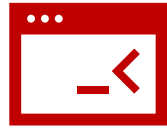
Typically doctors, lawyers, etc.

Other Exemptions

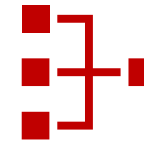
Computer Employee Exemption



Systems
analysis
techniques



Design, development,
analysis, etc. of
computer systems or
programs

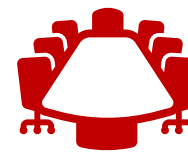


Higher level
computer
roles

Outside Sales



The employee's primary duty must be making or obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer.



The employee must be customarily and regularly engaged away from the employer's place or places of business.

Salary Basis Test

- Employee regularly receives a predetermined amount of compensation each pay period on a weekly or less frequent basis.
- The salary amount cannot be reduced because of the quality or quantity of the employee's work.
- Employee receives the full salary for any week in which they perform work, regardless of days or hours worked (unless they did not work at all during the week).



Salary Basis Test

Deductions From Pay

- Are permissible if they are on a full day basis for personal reasons other than sickness or disability.
- Are permissible for absences or disability for full days if they are made in accordance with a bona fide plan, policy or practice of providing compensation for salary lost due to illness.
- Best Practice – If exempt staff members have exhausted paid leave, allow such absences in whole day increments.

Updates From The Department of Labor

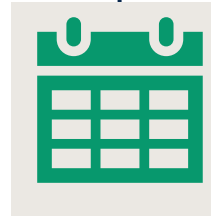
Salary Threshold Test

- Exempt Staff must be paid at least \$684 per week.
- This minimum salary threshold was projected to increase in two phases:



July 1, 2024

Minimum
increases to
\$844 per week



January 1, 2025

Minimum
increases to
\$1,128 per week

What Does This Change Mean?

- Any salaried exempt employee making less than \$844 per week will be reclassified as non-exempt and be entitled to overtime starting January 1, 2025
- Any salaried exempt employee that make less than \$128 per week will be reclassified as non-exempt and be entitled to overtime starting January 1, 2025
- These employees will be required to track their time and your timekeeping system and be paid time and a half for any hours worked over 40 hours per week

Federal Court Strikes Down Rule Raising Salary Threshold for Overtime Exemptions

Updated Information

- The court held that each of the three components of the rule exceeded the DOL's statutory authority under the FLSA.
- This means that the increase in the overtime threshold scheduled to become effective on January 1, 2025, will not go into effect.
- The court also struck down the July 1, 2024, increase that previously went into effect, although this may have limited practical effect for many employers that may have already adjusted their payroll to comply with that increase.
- Finally, the court held that the final rule's automatic "escalator" provision, which would have increased the threshold every three years going forward, was also unlawful.

Next Steps?

What Are The Next Steps



Revert salaries back to pre-July 1 pay.



Freeze salaries for a certain amount of time.



Before changing classification status, consider:

- Is the position truly exempt?
- Document the change.
- Make the change at the beginning of a pay period.

Making Classification Changes

Best Practices

- **Plan for how any reclassifications will be communicated to impacted employees.**



Do you have different PTO policies for Exempt and Non-Exempt staff?



Draft talking points for those leading the conversations.

- **Consider employee morale concerns.**



Could employees in the same role have different FLSA statuses based on their pay?



A change in status is not considered a demotion.

- **Provide training to staff and managers.**



Ensure timecard process is being followed correctly.



Communicate any break requirements per your policies or state laws.

Additional Considerations

Ministerial Exception

01

Depends on the duties of the employees.

02

Based on the employee's role of conveying the organization's message and carrying out its mission.

03

Clergy in a ministerial role are excluded from the FLSA and can be paid a salary under the threshold.

Camps and the FLSA

01

Most camps must comply with the FLSA.

- Paying the minimum salary for exempt staff.
- Paying the minimum wage for hourly staff and tracking time.

02

A camp may be exempt from the FLSA if they meet one of the following criteria:

- It does not operate for more than seven months in a calendar year.
- During the preceding calendar year, its average receipts for six months of that year were not more than 33.3% of the average receipts for the other six months of that year.

Considerations for Camps

01

Camps that operate under the Federal Employer Identification Number (FEIN) of the conference office may not qualify for the seasonal exemption

- If their recordkeeping overlaps, they may be considered a single organization that is not seasonal.

02

If eligible for the exemption, the receipts test must be done annually for the preceding year.

03

When considering this exemption, ensure state laws are reviewed and followed.

04

For more information, see Fact Sheet #18: Exemption for Seasonal Amusement Recreational Establishments Under the Fair Labor Standards Act (FLSA).

Regulations

- FLSA violations are almost always treated as collective actions.
- Multi-million dollar settlements are common.
- In 2024 the Department of Labor recovered \$273 million in wages owed workers.

Regulations

- Getting it wrong can be costly:
 - Up to 3 years back pay.
- Suits can be brought by:
 - Employees.
 - Department of Labor on behalf of Employees.
- Employee Said/Manager Said:
 - Employer has proof of burden.
 - Manager must have good records for hours worked.
 - Employee's word rules absent appropriate documentation.

Questions?



Thank You!



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