

## FLSA Exemption Test Worksheet

### *Executive, Professional, Computer, and Administrative Exemption Tests*

Federal law provides that employees may be exempt from the overtime wage provisions of the Fair Labor Standards Act (FLSA) in varying categories. Jacksonville State University has positions that could qualify in one of the following exemption categories: EXECUTIVE, PROFESSIONAL, COMPUTER, or ADMINISTRATIVE.

In order for an employee to qualify as being EXEMPT and thus not be required to be paid at one and one-half his or her regular salary, an employee need only qualify under one of the exemption categories.

The Department of Human Resources in collaboration with the department reviews and 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 base pay rate.

**POSITION TITLE:** \_\_\_\_\_

**DEPARTMENT:** \_\_\_\_\_

**TEST COMPLETION DATE:** \_\_\_\_\_

**FORM COMPLETED BY:** \_\_\_\_\_

**EXEMPTION TEST(S) COMPLETED:**  Executive (page 2-3)  Professional (page 4-5)  Administrative (page 6-7)  Computer (page 8)

**POSITION IS:**  Exempt Executive  Exempt Learned Professional  Exempt Creative Professional  
 Exempt Computer  Exempt Administrative  Exempt Academic Administrative

Non-exempt

**COMMENTS:** \_\_\_\_\_

### INSTRUCTIONS

Read the exemption status definition to determine if the position under review could be an appropriate fit. Answer the questions in each category the position may fit within. If a position does not qualify as exempt under the first category, proceed to the next, and so on. Please note that the Administrative category is used as a last resort and MUST have proper examples of work detailed on the form justifying the exemption. If the position does not meet the minimum salary requirement of \$684/week, this form does not have to be completed.

**EXECUTIVE**

To be considered for being classified as an exempt executive employee, an employee must be paid a weekly salary of \$684 or above; have duties which consist of management of a company or customarily recognized department or subdivision, regularly supervise and direct two or more employees, and must have authority to hire or fire other employees or suggestions as to such are given particular weight.

1. Does the employee receive a salary of at least \$684 per week?  
 Yes       No      Salary: \_\_\_\_\_

2. Does the employee's primary duty consist of managing a department or subdivision, which has a permanent status and continuing function? Read the following definitions and examples before answering:  
 Yes       No

Primary duty means the principal, main, major or most important duty that the employee performs. Consider the following factors and select those that apply:

- The relative importance of the exempt duties as compared with other types of duties.
- The amount of time spent performing exempt work. Usually employees who spend more than 50% (majority) of their time performing exempt work will satisfy the primary duty requirement.
- The employee's relative freedom from direct supervision.
- The relationship between the employee's salary and the wages paid to other non-exempt workers for the same kind of nonexempt work.
- Other \_\_\_\_\_

Consider the following examples of management activities and circle any that are applicable to the employee and select those that apply:

- Activities related to supervising employees such as interviewing, selecting, and training of employees.
- Setting and adjusting pay rates and work hours.
- Conducting performance appraisals.
- Handling employee complaints and grievances.
- Disciplining employees.
- Functions related to running or servicing a business such as determining the merchandise to be bought, stocked and sold.
- Planning and controlling the budget.
- Monitoring or implementing legal compliance measures.
- Other \_\_\_\_\_

Provide clarification to selected examples/factors. Give examples: \_\_\_\_\_

3. Does the employee customarily and regularly direct the work of two (2) or more full time, permanent employees?  
 Yes       No

List titles of all positions supervised: \_\_\_\_\_

4. Does the employee have the authority to hire and fire employees or are the employee's recommendations regarding hiring, firing and advancement (such as reclassifications and promotions) given particular weight?  
 Yes       No

An Equal Opportunity | Affirmative Action Employer

The following factors should be considered when determining whether an employee's suggestions are given particular weight. Select those that apply:

- Whether it is part of the employee's job duties to make suggestions and recommendations.
- The frequency with which suggestions and recommendations are made or requested.
- The frequency with which the employee's suggestions and recommendations are relied upon.
- The exempt executive need not have authority to make the ultimate decision. Suggestions and recommendations may be reviewed by a higher level administrator.
- Making an occasional suggestion regarding a change in status of a co-worker does not meet the "particular weight" standard.

Provide clarification to selected factors. Give examples: \_\_\_\_\_

5. Does an employee make their own decision about when to perform duties not listed above while still remaining responsible for the success or failure of business operations?

- Yes       No

Provide clarification if 'Yes' is selected: \_\_\_\_\_

- Meets** executive exemption test (Answered 'Yes' to all questions #1-5)
- Does not meet** executive exemption test

**ADDITIONAL NOTES JUSTIFYING EXEMPTION OUTCOME** (*optional*):

\_\_\_\_\_

**PROFESSIONAL**

To be considered for being classified as an exempt professional employee, an employee must be paid a weekly salary of \$684 or above; have duties requiring advanced or very specialized education and training and 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.

1. Does the employee receive a salary of at least \$684 per week?  
 Yes       No      Salary: \_\_\_\_\_
  
2. Does the employee’s primary duty consist of work requiring knowledge of an advanced type in a field of science or learning acquired by a prolonged course of specialized intellectual instruction as distinguished from a general academic education?  
 Yes       No

Consider the following factors and definitions before answering and select those that apply:

- “Advanced knowledge” means work that is predominately intellectual in character, and which includes work requiring the consistent exercise of discretion and judgment in a field of science or learning.
- An exempt professional employee generally uses the advanced knowledge to analyze, interpret or make deductions from varying facts or circumstances.
- Advanced knowledge cannot be attained at the high school level.
- “Prolonged course of specialized intellectual instruction” means that the learned professional exemption is limited to professions where specialized, academic training is a standard prerequisite for entering the profession.
- Professions covered by the learned professional exemption include: law, medicine, nursing, pharmacy, theology, architecture, accounting, actuarial computation, engineering, education, and various types of physical, chemical and biological sciences.

Provide clarification to selected factors/definitions. Give examples: \_\_\_\_\_

3. Does the employee customarily and regularly exercise discretion and independent judgment?  
 Yes       No

Consider and select the applicable factors in determining whether an employee exercises discretion and independent judgment before answering:

- Employee has the authority to make an independent decision free from immediate supervision after comparing and evaluating possible courses of action. (Note: An employee can meet this requirement even if their decisions are reviewed and occasionally reversed at a higher level).
- Has authority to formulate, affect, interpret, or implement management policies or operating practices.
- Carries out major assignments in conducting the operations of the business.
- Performs work that affects business operations to a substantial degree.
- Has authority to commit the employer in matter that have significant financial impact.
- Has authority to waive or deviate from established policies and procedures, without prior approval.
- Has authority to negotiate and bind the employer on significant matters.
- Provides consultation or expert advice to management; is involved in planning long- or short-term business objectives.
- Investigates and resolves matters of significance on behalf of management.
- Employee represents the employer in handling complaints, arbitrating disputes or resolving grievances.
- Other \_\_\_\_\_

An Equal Opportunity | Affirmative Action Employer

\*Please give specific examples of work for each item selected: (this must be completed) \_\_\_\_\_

4. Does the employee's primary duties consist of activities requiring the use of creativity, invention, or imagination in a recognized field of artistic endeavor? Read the following definitions and examples before answering:

Yes       No

Primary duty means the principal, main, major or most important duty that the employee performs. Consider the following factors and select those that apply:

- The relative importance of the exempt duties as compared with other types of duties  
 The amount of time spent performing exempt work. Usually employees who spend more than 50% (majority) of their time performing exempt work will satisfy the primary duty requirement.  
 The employee's relative freedom from direct supervision.  
 The relationship between the employee's salary and the wages paid to other non-exempt workers for the same kind of nonexempt work.  
 Other \_\_\_\_\_

Consider the following factor in determining a recognized field of artistic or creative endeavor. Select if it applies:

- Recognized fields of artistic or creative endeavor include music, writing, acting and the graphic arts. Thus, exempt creative professionals include musicians, composers, conductors, novelists, screen writers, actors, painters, and photographers.

Provide clarification to selected factors. Give examples: \_\_\_\_\_

5. Is the employee's work predominately intellectual and varied in character rather than routine mental, manual, mechanical or physical work?

Yes       No

Provide clarification if 'Yes' is selected: \_\_\_\_\_

6. Does an employee make their own decision when to perform duties not listed above while still remaining responsible for the success or failure of business operations?

Yes       No

Provide clarification if 'Yes' is selected: \_\_\_\_\_

- Meets** the learned professional exemption test (Answered 'Yes' to questions #1, 2, 3, 5 & 6)  
 **Meets** the creative professional exemption test (Answered 'Yes' to questions #1, 4, 5, & 6)  
 **Does not meet** the either learned or creative professional exemption test

**ADDITIONAL NOTES JUSTIFYING EXEMPTION OUTCOME** (optional):

\_\_\_\_\_

**ADMINISTRATIVE**

To be considered for being classified as an exempt administrative employee, an employee must be paid a weekly salary of \$684 or above; the employee’s primary duty is to perform office or non-manual work related to the management policies or general business operations of the employer or the employer’s customers; and perform duties that require the exercise of discretion and independent judgment. (As defined in 29 CFR 541.207 (A) this implies that the employee has the authority or power to make an independent choice, free from immediate direction or supervision, with respect to matters of significance.) THIS IS THE MOST DIFFICULT PART OF THE EXEMPTION TO DEFINE. Please note that the administrative exemption is used as a last resort and MUST have proper examples of work detailed on the form justifying the exemption.

1. Does the employee receive a salary of at least \$684 per week?  
 Yes       No      Salary: \_\_\_\_\_
  
2. Does the 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 (administrative duties)?  
 Yes       No

Consider the following factors and definitions when determining whether an employee performs administrative duties. Select those that apply:

- Administrative operations of the business include advising management, planning, negotiating, representing the company, purchasing, promoting sales, and business research and control.
- 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, and government relations.
- Administrative duties do not include routine or structured tasks such as bookkeeping, data tabulation, or clerical duties.
- The administrative work must be of substantial importance to the management or operation of the business, such as work affecting the development of policies or responsibilities to execute or carry out policy.

Provide clarification to selected factors/definitions. Give examples: \_\_\_\_\_

3. Does the employee perform administrative functions directly related to academic instruction or training?  
 Yes       No

Consider the following factors and definitions before answering and select those that apply:

- The superintendent or other head of an elementary or secondary school system, and any assistants, responsible for 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.
- The principal and vice-principals responsible for the operation of and elementary or secondary school.
- Department heads in institutions of higher education responsible for the administration of the mathematics department, the English department, etc.
- Academic counselors who perform work such as administering school testing programs, assisting students with academic problems and advising students concerning degree requirements.
- Other employees with similar responsibilities: \_\_\_\_\_
- Jobs relating to building management and maintenance, the health of students, and academic staff such as social workers, psychologists, lunch room managers do not perform academic administrative functions.

An Equal Opportunity | Affirmative Action Employer

Provide clarification to selected factors/definitions. Give examples: \_\_\_\_\_

4. Does the employee customarily and regularly exercise discretion and independent judgment?

- Yes       No

Consider and select the applicable factors in determining whether an employee exercises discretion and independent judgment before answering:

- Employee has the authority to make an independent decision free from immediate supervision after comparing and evaluating possible courses of action. Note: An employee can meet this requirement even if their decisions are reviewed and occasionally reversed at a higher level).
- Has authority to formulate, affect, interpret, or implement management policies or operating practices.
- Carries out major assignments in conducting the operations of the business.
- Performs work that affects business operations to a substantial degree.
- Has authority to commit the employer in matter that have significant financial impact.
- Has authority to waive or deviate from established policies and procedures, without prior approval.
- Has authority to negotiate and bind the employer on significant matters.
- Provides consultation or expert advice to management; is involved in planning long- or short-term business objectives.
- Investigates and resolves matters of significance on behalf of management.
- Employee represents the employer in handling complaints, arbitrating disputes or resolving grievances.
- Other \_\_\_\_\_

\*Please give specific examples of work for each item selected: (this must be completed) \_\_\_\_\_

- Meets** the administrative exemption test (Answered 'Yes' to questions #1, 2, & 4)
- Meets** the academic administrative exemption test (Answered 'Yes' to questions #1, 3, & 4)
- Does not meet** the administrative exemption test

**ADDITIONAL NOTES JUSTIFYING EXEMPTION OUTCOME** (optional):

\_\_\_\_\_

**COMPUTER**

To be considered for being classified as an exempt computer employee, an employee must be paid a weekly salary of \$684 or above; and 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 \$684 per week?

Yes       No      Salary: \_\_\_\_\_

2. Does the employee’s primary duty consist of the performance of work that requires the application of one of the following:

Yes       No

Select the applicable duties:

- Systems analysis techniques and procedures, including consulting with users to determine hardware, software or system functional specifications.
- The design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on user system design specifications.
- The design, documentation, testing, creation or modification of computer programs related to machine operating systems.

Consider the following factors before answering and select those that apply:

- The work must require a high level of proficiency in the theoretical and practical application of specialized knowledge in computer system analysis, programming and software engineering.
- The exemption typically requires the expertise and skill to work independently. Trainees or employees in entry level positions who do not work independently do not typically qualify for exemption.
- The exemption does not apply to positions involving operation, repair, or maintenance of computer hardware, networks, or equipment.
- “Help desk” employees, even though they often solve complex technical problems, are *not* considered exempt computer employees.
- Employees whose work is dependent on computers (e.g., engineers, drafters, computer-aided design (CAD) operators), but who are not in computer systems analysis and programming occupations, are not included in this exemption.

Provide clarification to selected factors. Give examples: \_\_\_\_\_

- Meets** the computer exemption test (Answered ‘Yes’ to all questions #1 & 2)
- Does not meet** the computer exemption test

**ADDITIONAL NOTES JUSTIFYING EXEMPTION OUTCOME** (optional):

\_\_\_\_\_