

PROFESSIONAL EXEMPTION WORKSHEET

Job Title: _____ Department: _____

Worksheet Determination: _____ Exempt _____ Non-Exempt

Important Reminder: The Department of Labor enforces the FLSA and makes the final decision as to whether this position is exempt or non-exempt

Instructions: Review the current job description for this position before answering the questions below. **In order to classify this position as exempt, the answer to each of the questions must be “yes.”**

Note: When completing this worksheet for a position that has two or more incumbents, you must be able to answer all of the questions with a “yes” for each individual employee. If the answer to any question is “no” for one employee, that individual employee should be classified as non-exempt. This would not, however, automatically negate the exemption for the other incumbents so long as their answer is “yes” to the question.

SALARY LEVEL TEST

Yes No

Comments

1. Does the employee currently earn \$684 or more per week? Current weekly salary: _____			
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SALARY BASIS TEST

2. Does the employee regularly receive a predetermined amount of compensation each pay period?			
3. Does the employee receive full salary without any deductions even if there are variations in the quality or quantity of the employee’s work?			
4. Does the employee receive full salary for working less than a full workweek due to absences caused by the employer or the operating requirements of the company?			
5. Are only full day salary deductions taken from the employee’s pay (no partial day deductions except for FMLA absences)?			
6. Are unpaid suspensions for full weeks only unless for major safety or workplace conduct rules?			

*The salary level and salary basis tests do not apply to bona fide teachers, lawyers, and doctors

DUTIES TEST FOR LEARNED PROFESSIONALS

1. Is the employee’s primary duty ¹ work requiring advanced knowledge ² in a field of science or learning ³ that is customarily acquired by a prolonged course of specialized intellectual instruction ⁴ ? Primary duty: _____			
2. Does the employee perform work that is predominantly intellectual in character and which requires the consistent exercise of discretion and judgment ⁵ ?			

DUTIES TEST FOR TEACHERS**Yes****No****Comments**

1. Is the employee's primary duty ¹ teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge to students? Primary duty: _____			
2. Does the employee work in an educational establishment?			

DUTIES TEST FOR CREATIVE PROFESSIONALS**Yes****No****Comments**

1. Is the employee's primary duty ¹ work requiring invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor ⁶ ? Primary duty: _____			
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¹"Primary duty" means the principal, main, major, or most important duty the employee performs. Determination of an employee's primary duty must be based on all the facts in a particular case, with the major emphasis on the character of the employee's job as a whole.

²"Work requiring advanced knowledge" means work that is predominantly intellectual in character and which typically requires the consistent exercise of discretion and judgment. An employee uses advanced knowledge when analyzing, interpreting, or making deductions from varying facts or circumstances. Advanced knowledge cannot be attained at the high school level.

³"Field of science or learning" includes, but is not limited to, teaching, law, medicine, engineering, accounting, architecture, pharmacy, and various physical, chemical and biological sciences. It does not include mechanical arts or skilled trades even if an employee's knowledge is of an advanced type.

⁴"Prolonged course of specialized intellectual instruction" means having the appropriate academic degree. The learned professional exemption typically applies to those professions where specialized academic training is a standard requirement for entrance into the profession. It does not apply to occupations where most employees normally acquire their skill by work experience. In some cases, however, employees who have substantially the same knowledge and perform substantially the same work as degreed employees but have attained their knowledge through a combination of on-the-job experience and intellectual instruction may also qualify for the exemption.

⁵"Discretion and independent judgment" means comparing and evaluating possible options and acting on or making a decision after the possibilities have been considered. The term must be applied in light of all the facts involved in the employee's particular situation, and implies that the employee has authority to make an independent choice, free from immediate direction or supervision. Factors to consider include, but are not limited to, whether the employee:

- Has the 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 the authority to commit the employer in matters that have significant financial impact; and
- Is able to waive or deviate from the employer's established policies and procedures without authorization.

If an employee's decisions are revised or reversed, it does not necessarily mean that the employee is not exercising discretion and independent judgment. The employee must use more than skill in applying well-established techniques, procedures, or specific standards described in manuals or other reference materials.

⁶Includes the fields of music, writing, acting, and graphic arts.

This worksheet was completed by

Name: _____

Date: _____