

Fair Labor Standards Act (FLSA) Classification Information

Requirements for a Position to be Classified as Exempt

To be classified as exempt, the position must be performing executive, administrative, professional, or computer-related duties AND meet the following duties and salary tests:

- Employee primarily performs executive, administrative, professional, or computer-related duties as defined by the regulations (duties test)
- Employee is salaried - i.e. paid a predetermined amount not subject to reductions based on work performance (salary basis test)
- Employee's salary exceeds the levels specified in the regulations (salary level test)

Duties Test

Described in the FLSA, the duties test is different for each category. To determine whether an employee is exempt, an analysis of each position is required and is based on duties and responsibilities, so an employer cannot declare that a position is exempt based on a class, type of role, title, or category of position without doing the functional analysis. Whether an employee meets the duties under one of the categories (i.e. executive, administrative, professional or computer-related) is generally determined by assessing the employee's primary duties.

Executive - The employee's primary duty must be managing a department or subdivision; the employee must customarily and regularly direct the work of at least **two or more full-time** employees or their equivalent, and the employee must have the authority to hire or fire other employees (or the person's suggestions and recommendations as to the hiring, firing, advancement, promotion, or any other change of status of other employees are given particular weight).

Administrative - The employee's primary duties must be the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers and must include the exercise of discretion and independent judgment with respect to matters of significance.

Professional - 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 in a field of science or learning. Additionally, the advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

Computer-Related - The employee's primary duty is computer systems analysis, computer programming, software engineering; application of system analysis techniques and procedures including consulting with users to determine hardware, software, or system functional specifications; and the design, development, documentation, analysis, creation, testing, or modification of computer systems.

Salary Test

Effective December 1, 2016, Brown increased the salary threshold to be considered exempt to \$48,000/year. This salary threshold was implemented in response to the Department of Labor announced changes to the Fair Labor Standards Act (FLSA), which were going to take effect December 1, 2016 to **\$913/week (\$47,476)**. On November 22, 2016 a federal judge issued a nationwide preliminary injunction blocking the \$47,476 exempt salary threshold increase. The judge's injunction means that changes to the Fair Labor Standards Act (FLSA) did not go into effect as planned on December 1, 2016. However, Brown decided to continue with the changes that had already been communicated to employees.

Minimum Grade Level Requirements at Brown

In order to pay staff on a consistent basis and ensure equity for staff who have similar roles, responsibilities, and titles, all staff in grade 8 are overtime eligible and paid hourly. Having employees in similar roles and classifying them differently could prompt discrimination claims. Department heads have the option to retain the exempt status for staff in grade 8 positions who supervise at least two full-time, 12-month regular employees (not students).