

Florida Association of School Personnel Administrators



PRESENTS

AUDITING YOUR DISTRICT FOR WAGE HOUR COMPLIANCE

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Highlights of New Wage Hour Regulations

- Minimum salary increase to \$455.00/week, or \$23,660.00/year



Highlights of New Wage Hour Regulations

Executive Exemption:

- a. have a primary duty of managing the enterprise or a recognized department or subdivision; and
- b. customarily and regularly directs the work of two or more other employees; and



Highlights of New Wage Hour Regulations

Executive Exemption:

- c. have the authority to hire or fire other employees or whose suggestions or recommendations in all areas of employment (hiring, firing, promotions, and advancement) or any other change of job status of other employees are given particular weight.
- d. compensated on a salary basis at a rate of not less than \$455.00 per week.



Highlights of New Wage Hour Regulations

An administrative employee must:

- a. have the primary duty of performing office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and



Highlights of New Wage Hour Regulations

An administrative employee must:

- b. have a primary duty that includes the exercise of discretion and independent judgment with respect to matters of significance; and
- c. be compensated on a salary or fee basis at a rate of not less than \$455.00 per week.



Highlights of New Wage Hour Regulations

Administrative employees in Educational
Establishments:

- b. have a primary duty of performing administrative functions directly related to academic instruction or training in an educational establishment ...or department thereof; and
- c. are compensated on a salary or fee basis at a rate of not less than \$455.00 per week.



Highlights of New Wage Hour Regulations

Administrative employees in Educational Establishments:

directly related to academic instruction or training does not include administration as to general school operations.



Computer Personnel

- can be exempt if they are paid on other than a salary basis provided they earn \$27.63 an hour



Computer personnel

Primary duties must consist of:

1. either the application of systems analysis techniques and procedures (including consulting with users) to determine hardware and software specifications;



Computer personnel

Primary duties must consist of:

2. the design of computer systems based on and related to user specifications;



Computer personnel

Primary duties must consist of:

3. the creation or modification of computer programs based on and related to systems design specifications;
4. the creation or modification of computer programs related to machine operating systems; or
5. a combination of the above duties.



Computer Personnel

- the exemption does not include employees engaged in the operation of computers or in the manufacture, repair, or maintenance of computer hardware and related equipment.



Computer Personnel

- computer professional exemption is *not* intended for the entry-level employee or the data entry operator.



Salary Basis Test:

- requires that exempt employees receive their full salary on a weekly or less frequent basis.
- You may not reduce their salary because of variations in the quality or quantity of work performed for any week in which they perform work.



Salary basis test:

- The 2004 regulations also retained the prohibition on deductions from pay for partial-day absences.



Regulations Highlights:

- Disciplinary Deductions:

Deductions allowed for full-day disciplinary suspensions if pursuant to written conduct rules.



Salary Basis Test:

- Disciplinary Deductions:

New regulations also allow for full-day deductions for absences due to sickness or disability if made pursuant to a written salary compensation plan.



Regulation Highlights:

Safe Harbor for Violations:

- If the improper deductions were only isolated incidents, then the employer wouldn't lose overtime exemptions for an entire class of employees. The exemption would be lost only if there's an "actual practice" of making improper deductions.



Regulation Highlights:

Safe Harbor Provisions:

Employers need a salary policy in writing
and published



Remedies/Damages

- Overtime compensation
- Back Pay
- Liquidated Damages
- Attorney's Fees
- Civil Money Penalties
- Criminal Prosecution



Statute of Limitations

- 3 Years if a willful violation is proven



Collective Actions



Procedure for Auditing for Compliance

- Questionnaires
- Interviews
- Letters



Common Problems

- Salary does not negate payment for overtime



Commons Problems:

- Janitors/Head Custodians
- District personnel working two jobs

Athletic Trainers:

- Athletic trainers who have successfully completed four academic years of pre-professional and professional study in a specialized curriculum accredited by the Commission on Accreditation of Allied Health Education Programs and who are certified by the Board of Certification of the National Athletic Trainers Association generally meet the duties requirements for the learned professional exemption.



Common Problems:

- Executive Secretaries (Senior Administrative Assistants)



Common Problems:

- Working at Home



Common Problems:

- Food Service Middle Managers



Common Problems:

- Unauthorized overtime