

# FLSA: Employee Duties/Exemption Assessment

Employee's Name:	
Employee's 901#:	
Position Number:	
Employee's Current Title and Pay Grade:	
Department:	
Supervisor's Name:	
Supervisor's Title:	
Date Completed:	
Department Contact Information:	

Please note that an employee must meet the salary basis test to be exempt under the FLSA. If the incumbent in the position earns less than the minimum required salary of \$684 per week (equivalent to \$35,568 per year for a full year worker), the position is considered non-exempt and is subject to the overtime provisions of the FLSA.

## Instructions:

1. Read the criteria for each exemption category (executive, administrative, computer, learned professional, or creative professional). Select the assessment category that best matches this particular position (i.e. Executive, Administrative, Computer, Professional/Creative). **No more than one category should be completed.**
2. Place an "x" in each box that applies to this position. Give specific and detailed answers to the questions asked.
3. Please submit the completed form as an email attachment to Bruce Felder, Human Resources, by 4:30 p.m. on 11/15/2019

### Executive Employee Exemption

Exempt executive employees generally are responsible for the success or failure of business operations under their management. Other critical elements are (1) whether management is the employee's primary duty, (2) whether the employee directs the work of two or more full-time equivalent employees, and (3) whether the employee has the authority to hire/fire other employees or, alternatively, whether the employee's suggestions and recommendations as to the hiring, firing, advancement, promotion or other change of status of other employees are given particular weight.

	YES	NO
Is the incumbent compensated on a <u>salary basis</u> at a rate not less than \$684 per week? If not, do you have VP approval and does your budget allow for incumbent's salary to be increased to \$35,568?		If no, stop here – no need to proceed.
Does the incumbent's primary duty consist of managing a recognized department or division of the university? If yes, please describe:		
Does the incumbent regularly supervise two or more employees who are employed in the department?		
Does the incumbent interview, select and train employees? Coach employees in proper job performance techniques and procedures?		
Does the incumbent complete performance evaluations?		
Does the incumbent handle employee complaints and grievances and discipline employees when necessary?		
Does the incumbent plan other employees' work and determine the techniques used in their work?		
Does the incumbent distribute work among different employees?		
Does the incumbent determine the types of materials, supplies, or tools to be used by other employees? Control the flow and distribution of materials and supplies?		
Does the incumbent provide for the safety of employees and the property of the employer?		
Does the incumbent control a budget? If yes, please explain:		

Does the incumbent monitor or implement legal compliance measures?		
Does the incumbent have the authority to hire or fire other employees?		
If no, is it part of the incumbent's job to make recommendations on hiring, firing, advancement or other change of status?		
Are the incumbent's recommendations frequently relied upon?		
What percent of working time does the incumbent spend providing the leadership duties and responsibilities described above?	%	
List the employees that incumbent supervises and whose performance is evaluated by incumbent.		
<b>Name</b>	<b>Title</b>	<b>FTE</b>

### Administrative Employee Exemption

The duties portion of the administrative exemption test establishes a two-part inquiry for determining whether an employee performs exempt administrative duties. First, what **type** of work is performed by the employee? Is the primary duty the performance of work directly related to management or general business operations? Second, what is the **level or nature** of the work performed? Does the employee's primary duty include the exercise of discretion and independent judgment with respects to matters of significance? All of the relevant factors must be considered when determining whether an employee in an administrative position is exempt.

	YES	NO
Is the incumbent compensated on a <u>salary basis</u> at a rate not less than \$684 per week? If not, do you have VP approval and does your budget allow for incumbent's salary to be increased to \$35,568?		If no, stop here – no need to proceed.
Please describe the incumbent's primary duty:		
Is this primary duty directly related to the management or general business operations of Marshall University or its customers?		
Does the incumbent's <u>primary duty</u> require the exercise of discretion and <u>independent</u> judgment with respect to matters of significance? If yes, does the employee:		
(a) Have authority to formulate, affect, interpret, or implement management policies or operating practices? If yes, please provide an example:		

<p>(b) Carry out major assignments in conducting the operations of the university? If yes, please provide an example:</p>		
<p>(c) Perform work that affects business operations to a substantial degree? If yes, please provide an example:</p>		
<p>(d) Have the authority to waive or deviate from established policies and procedures without prior approval? If yes, please provide an example:</p>		
<p>(e) Provide consultation or expert advice to management?</p>		
<p>(f) Have authority to negotiate and bind the university on significant matters? If yes, please provide an example:</p>		
<p>(g) Have involvement in planning long or short-term business objectives?</p>		
<p>(h) Investigate and resolve matters of significance on behalf of management? If yes, please provide an example:</p>		

### Computer Employee Exemption

An employee who meets the consolidated duties test for computer professionals will be exempt if he or she meets either the salary or fee basis test or is paid at least \$18.24 per hour. To qualify as an exempt computer employee, a worker must have a primary duty that consists of the four duties described under #3 below. The primary duty requirement applies both to salaried and hourly computer employees.

	YES	NO
Is the incumbent compensated on either a salary basis of \$684 per week, or compensated on an hourly basis, at a rate not less than \$18.24 per hour? If not, do you have VP approval and does your budget allow for incumbent's salary to be increased to \$35,568?		If no, stop here – no need to proceed.
Is the incumbent employed as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer field? If yes, please describe the incumbent's <u>primary duty</u> :		
Does the incumbent's primary duty consist of:		
a) The application of systems analysis techniques and procedures, including consulting with users to determine hardware, software, or system functional specifications? If yes, please give an example:		
b) The design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications? If yes, please give an example:		

c) The design, documentation, testing, creation, or modification of computer programs related to user or system design specifications? If yes, please give an example:		
d) A combination of the aforementioned duties, the performance of which requires the same level of skills? If yes, please give an example:		

### Professional Employee Exemption

The professional exemption actually encompasses two exemptions, one for learned professionals and one for creative professionals. To be an exempt learned professional, an employee must have a primary duty that is the performance of work requiring knowledge of an advanced type, including the consistent exercise of discretion and judgment in a field of science or learning where the advanced knowledge is acquired by a prolonged course of specialized intellectual instruction (examples include lawyers, doctors, architects, teachers, etc.) To meet the test for the creative professional exemption, an employee must have a primary duty that involves the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor (examples include actors, musicians, novelists, etc.).

<b>Learned Professional Employee</b>		
	<b>YES</b>	<b>NO</b>
Is the incumbent compensated on a <u>salary basis</u> at a rate not less than \$684 per week? If not, do you have VP approval and does your budget allow for incumbent's salary to be increased to \$35,568?		If no, stop here – no need to proceed.
Please describe the incumbent's primary duty:		
(a) Does the incumbent's primary duty involve the performance of work requiring advanced knowledge in a field of science or learning that is customarily acquired by a prolonged course of specialized intellectual instruction?		
(b) Is the incumbent's primary duty predominantly intellectual in character? If yes, please describe:		
(c) Does the incumbent's primary duty require that his or her advanced knowledge be used to analyze, interpret, or make deductions from varying facts or circumstances? If yes, please give an example:		



<p>(d) Does the incumbent's primary duty include the <u>consistent</u> exercise of discretion and judgment? If yes, please give an example:</p>		
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<b>Creative Professional Exemption</b>		
	<b>YES</b>	<b>NO</b>
Is the incumbent compensated on a <u>salary basis</u> at a rate not less than \$684 per week? If not, do you have VP approval and does your budget allow for incumbent's salary to be increased to \$35,568?		If no, stop here – no need to proceed.
Please describe the incumbent's primary duty:		
Does the incumbent's primary duty involve the performance of work requiring invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor? If yes, please give an example:		

<b>For HR Use Only</b>	
Relevant exemption test:	
Exempt status determination:	
Date finalized:	
Class/Compensation Analyst	