



# FLSA UPDATE

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# FLSA Update

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- » Non-exempt employees must be paid for all hours worked.
- » Cannot volunteer time.



# FLSA Update

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- » Be wary of instructions.
- » Be here ten minutes early so you can be ready to work, and clock-in at your start time.

# FLSA Update

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- » Non-exempt employees must be paid overtime for all hours worked over 40 in a workweek.
- » FLSA considers each week separate.

# FLSA Update

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- » Cannot dock overtime due.
- » Can issue corrective action for working unauthorized overtime.



# FLSA Update

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- » Exempt Employees
- » Must be paid on a salary basis.
- » A predetermined amount that does not vary with the quality or quantity of work.
- » The amount was set to change but was blocked by federal court injunction.

# FLSA Update

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- » Two attempts to change salary amount by DOL.
- » Both were blocked.
- » Congressional action required?



# FLSA Update

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» Duties test.

**Professional**

**Executive**

**Administrative**



# FLSA Update

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## » Executive

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

# FLSA Update

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## » Administrative

- The employee's primary duty 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
- The employee's primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

# FLSA Update

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## » 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;
- The advanced knowledge must be in a field of science or learning; and
- The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

# FLSA Update

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## » Creative Professional

- The employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$684 per week;
- The employee's primary duty must be the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor.



# FLSA Update

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## » Computer Employee

- The employee must be compensated **either** on a [salary](#) or fee basis (as defined in the regulations) at a rate not less than \$684 per week **or**, if compensated on an hourly basis, at a rate not less than \$27.63 an hour;
- The employee must be employed as a computer systems analyst, computer programmer, software engineer or other similarly skilled worker in the computer field performing the duties described below.

# FLSA Update

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## » Computer Employee

- The employee's primary duty must consist of:
- The application of 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 and related to user or system design specifications;
- The design, documentation, testing, creation or modification of computer programs related to machine operating systems; or
- A combination of the aforementioned duties, the performance of which requires the same level of skills.

# FLSA Update

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## » Highly Compensated Employee

- Highly compensated employees performing office or non-manual work and paid total annual compensation of \$107,432 or more (which must include at least \$684 per week paid on a salary or fee basis) are exempt from the FLSA if they customarily and regularly perform at least one of the duties of an exempt executive, administrative or professional employee identified in the standard tests for exemption.

# FLSA Update

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## » Travel Time for Non-exempt Employees

### » **Home to Work Travel:**

» An employee who travels from home before the regular workday and returns to his/her home at the end of the workday is engaged in ordinary home to work travel, which is not work time.



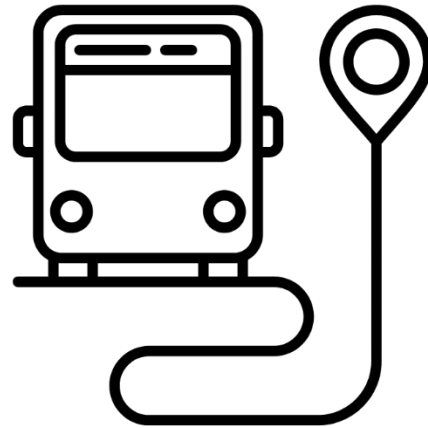


# FLSA Update

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## » Home to Work on a Special One Day Assignment in Another City:

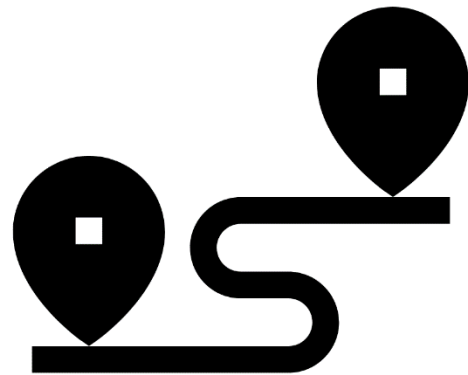
» An employee who regularly works at a fixed location in one city is given a special one-day assignment in another city and returns home the same day. The time spent in traveling to and returning from the other city is work time, except that the employer may deduct/not count that time the employee would normally spend commuting to the regular work site.



# FLSA Update

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- » **Travel That is All in a Day's Work:**
- » Time spent by an employee in travel as part of their principal activity, such as travel from job site to job site during the workday, is work time and must be counted as hours worked.



# FLSA Update

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## » Travel Away from Home Community:

» Travel that keeps an employee away from home overnight is travel away from home. Travel away from home is clearly work time when it cuts across the employee's workday. The time is not only hours worked on regular working days during normal working hours but also during corresponding hours on nonworking days. As an enforcement policy the Division will not consider as work time that time spent in travel away from home outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile.

# Thank you!



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