

**SOUTH CAROLINA STATE UNIVERSITY  
PERSONNEL POLICIES AND PROCEDURES MANUAL**

SECTION: FLSA and Classification and Compensation Administration	Section: II
	Subject: A.8
SUBJECT: FLSA Exemptions (Executive, Administrative and Professional Employees)	Effective: 01/01/06
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**THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND SOUTH CAROLINA STATE UNIVERSITY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE UNIVERSITY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.**

**FLSA EXEMPTIONS (EXECUTIVE, ADMINISTRATIVE AND PROFESSIONAL EMPLOYEES)**

The exempt and nonexempt status of any particular employee or position must be determined on the basis of whether the employee's actual duties, responsibilities and salary meet all the FLSA requirements for exemption. South Carolina State University's Office of Human Resource Management (OHRM) is charged with the responsibility of determining the exempt or nonexempt status of positions/employees. Should there be any questions concerning the exempt or nonexempt status of any employee's position, please call OHRM.

Section 13(a)(1) of the Act exempts from the minimum wage and overtime provisions any employee employed in a bona fide executive, administrative, or professional capacity. FLSA regulations do not permit exempt employees to be paid on an hourly basis. All exempt employees must be compensated on a salaried basis.

**EXECUTIVE EXEMPTION**

The "Executive Duties" test has four requirements:

1. The employee must be compensated on a salary basis at a rate not less than \$455 per week;
2. Managing the enterprise, or managing a customarily recognized department or subdivision of the enterprise;
3. Customarily and regularly direct the work of at least two or more other full-time employees or their equivalent; and
4. Having authority to hire or fire (or such recommendations as to the hiring, firing, advancement, promotion, or any change of status of other employees are given particular weight).

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**ADMINISTRATIVE EXEMPTION**

The “Administrative Duties” test has three requirements:

1. The employee must be compensated on a salary basis at a rate not less than \$455 per week;
2. 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
3. Primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

**PROFESSIONAL EXEMPTION**

The **Learned Professional Exemption** has four requirements:

1. The employee must be compensated on a salary or fee basis at a rate not less than \$455 per week;
2. Primary duty must be the performance of work requiring advanced knowledge, defined as work which is predominately intellectual in character in which includes work requiring the consistent exercise of discretion and judgment;
3. Advanced knowledge must be in a field of science or learning; and
4. Advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

The **Creative Professional Exemption** has two requirements:

1. The employee must be compensated on a salary or fee basis at a rate not less than \$455 per week; and
2. 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.

The exemptions do not apply to police officers, detectives, deputy sheriffs, state troopers, highway patrol officers, investigators, inspectors, correctional officers, parole or probation officers, park rangers, fire fighters, paramedics, emergency medical technicians, ambulance personnel, rescue workers, hazardous materials workers and similar employees, regardless of rank or pay level, who perform work such as preventing, controlling or extinguishing fires of any type; rescuing fire, crime or accident victims; preventing or detecting crimes; conducting investigations or inspections for violations of law; performing surveillance; pursuing, restraining and apprehending suspects; detaining or supervising suspected and convicted criminals, including those on probation or parole; interviewing witnesses; interrogating and fingerprinting suspects; preparing investigative reports; or other similar work.