



Bulletin

Department of Human Resources

2016

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Elected Officials, Appointed Officials and Department Heads

Subject: FLSA Final Rule – New Salary Basis Test

Date Issued: November 15, 2016

Number: 2016-11-01

The Fair Labor Standards Act (FLSA) of 1938 was enacted to prevent employers from taking advantage of employees. This federal law sets standards for minimum wage, overtime pay, equal pay, record keeping, and child labor.

FLSA requires that employees be paid at least one and one-half times their regular rate of pay for all hours worked over 40 hours in a work week, unless they are excluded or exempt from FLSA overtime provisions.

FLSA provides exemptions from overtime pay requirements for employees who meet criteria specified by the FLSA. The criteria permit exemption of executive, administrative, learned professional, creative professional, highly compensated worker, and computer professional. To qualify for an FLSA exemption, employees must meet certain tests regarding their job duties and their compensation. The "Salary Level Test" was set at \$23,660 annually in 2004.

Effective December 01, 2016, the "Salary Level Test" has been changed (set) to \$47,476 annually. This means that Hidalgo County employees who make less than \$47,476 on an annual basis can no longer be exempt from FLSA even if they meet the duties test. FLSA exempt or non-exempt status is determined on the basis of whether the employee's salary and duties meet certain criteria, and is not based on classes of work or job titles.

It should be noted that just because the employee meets the exemption criteria is not a reason to exempt the employee. If the Department Head/Elected Official needs the employee to be FLSA exempt, the employee must meet both the salary and the duties tests for the appropriate exempt category.

Attached, please find the following:

1. Copy (partial) of the Department of Labor fact sheet related to the Final Rule.
2. Copies of the "Exemption Test" forms for Executive Employee, Administrative Employee, Learned Professional Employee, and Computer Professional Employee. (These forms can be found on the County's Website under Policies and Forms in the Employees Only Section)
3. A listing of currently FLSA exempt employees for your department.

Please complete a new Exemption Test form for each employee in your department that you have determined needs to be exempt because of a justified business necessity and who meets the exemption criteria (including the new "Salary Test"), and submit the form as an attachment to a new Change of Status Form.

The Change of Status Form and the Exemption Test Form must be submitted to the Department of Human Resources not later than 12/01/2016