State University of New York

FLSA Administrative Exemption Review

|  |  |  |  |
| --- | --- | --- | --- |
| Position/Title |  | Campus Title: |  |
| Salary Level: |  | Department: |  |
| Line #: |  | Employee: |  |

**INSTRUCTIONS**

Complete this form based on the actual duties of the position as described in an attached position description. Answers must be supported by duties description.

**Administrative Review**

|  |  | **Yes** | **No** |
| --- | --- | --- | --- |
| * Is the employee’s **primary duty** 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**;
 |  |  [ ]  | [ ]  |
|  | * “**Primary duty**” means the principal, main, major or most important duty that the employee performs.  Determination of an employee’s primary duty must be based on all the facts in a particular case, with the major emphasis on the character of the employee’s job as a whole.
* It is a good “rule of thumb” for the primary duty to take about 50% of the worker’s time. However, time alone is not the only consideration. Other factors to consider include:
	+ the relative importance of the exempt duties compared to the nonexempt duties;
	+ the amount of time spent performing exempt duties;
	+ the worker’s freedom from direct supervision;
	+ the relationship between the worker’s salary and;
	+ wage paid to other employees for the same kind of exempt work.
 |  |  |  |
|  | * To meet the “**directly related to management or general business operations**” requirement, an employee must perform work directly related to assisting with the running or servicing of the business, as distinguished, for example from working on a manufacturing production line or selling a product in a retail or service establishment or the delivery of services.  Work “directly related to management or general business operations” includes, but is not limited to, work in functional areas such as tax; finance; accounting; budgeting; auditing; insurance; quality control; purchasing; procurement; advertising; marketing; research; safety and health; personnel management; human resources; employee benefits; labor relations; public relations; government relations; computer network, Internet and database administration; legal and regulatory compliance; and similar activities.
 |  |  |  |
|  |  |  |  |  |
| * Does the employee’s primary duty include the **exercise of** **discretion and independent judgment** with respect to **matters of significance**.
 |  | [ ]  | [ ]  |
|  | * + In general, the **exercise of discretion and independent judgment** involves the comparison and the evaluation of possible courses of conduct and acting or making a decision after the various possibilities have been considered.  The term must be applied in the light of all the facts involved in the employee’s particular employment situation, and implies that the employee has authority to make an independent choice, free from immediate direction or supervision.  Factors to consider include, but are not limited to whether the employee:
	+ has the authority to formulate, affect, interpret, or implement management policies or operating practices;
	+ carries out major assignments in conducting the operations of the business; whether the employee performs work that affects business operations to a substantial degree;
	+ has authority to commit the employer in matters that have significant financial impact;
	+ has authority to waive or deviate from established policies and procedures without prior approval, and other factors set forth in the regulation.
* The fact that an employee’s decisions are revised or reversed after review does not mean that the employee is not exercising discretion and independent judgment.  The exercise of discretion and independent judgment must be **more than the use of skill in applying well-established techniques, procedures or specific standards described in manuals or other sources**. Activities that are clerical or secretarial, recording or tabulating data, or performing other mechanical, repetitive, recurrent or routing work do not meet the “discretion and independent judgement” criteria.
* Examples of discretion and independent judgement include the following:
	+ - has authority to negotiate and bind the department on significant matters;
		- provides consultation or expert advice to management;
		- plans long or short term business objectives;
		- investigates and resolves matters of significance on behalf of management;
		- represents the university in handling complaints, disputes, or grievances.
* Examples of jobs that may satisfy the administrative exemption include:
	+ - employees that lead a team of workers assigned to complete a major project for the department;
		- employees, who without specific instructions or prescribed procedures, has been delegated authority regarding matters of significance;
		- Human Resource managers who formulate, interpret, or implement Human Resources policies; purchasing agents with authority to bind the department on significant purchases.
	+ The term “**matters of significance**” refers to the level of importance or consequence of the work performed.  An employee does not exercise discretion and independent judgment with respect to matters of significance merely because the employer will experience financial losses if the employee fails to perform the job properly.  Similarly, an employee who operates very expensive equipment does not exercise discretion and independent judgment with respect to matters of significance merely because improper performance of the employee’s duties may cause serious financial loss to the employer.
 |   |  |  |
|  |  |  |  |

**Educational Establishment Administrative Review**

|  |  |  |  |
| --- | --- | --- | --- |
|  |  | **Yes** | **No** |
| * Is the employee’s **primary duty** is performing **academic administrative functions** directly related to academic instruction or training in an educational establishment.
 |  | [ ]  | [ ]  |
|  | * “**Primary duty**” means the principal, main, major or most important duty that the employee performs.  Determination of an employee’s primary duty must be based on all the facts in a particular case, with the major emphasis on the character of the employee’s job as a whole.
 |  |  |  |
|  | * **Academic administrative functions** include operations directly in the field of education, and do not include jobs relating to areas outside the educational field.Employees engaged in academic administrative functions include:
	+ - administration of such matters as curriculum, quality and methods of instructing, measuring and testing the learning potential and achievement of students, establishing and maintaining academic and grading standards, and other aspects of the teaching program;
		- department heads in institutions of higher education responsible for the various subject matter departments;
		- academic counselors and other employees with similar responsibilities
 |  |  |  |

Copy of job description attached

Completed by Date

HR Review Date Meets salary threshold Y/N