

**The Research Foundation for SUNY**

**FLSA Exemption Checklist**

Budget Title: [Click here to enter text.](#)

Descriptive Title: [Click here to enter text.](#)

Grade: [Click here to enter text.](#) Salary: [Click here to enter text.](#) Department: [Click here to enter text.](#)

Employee: [Click here to enter text.](#)

<input type="checkbox"/> Test 1: <b><u>Executive Exemption</u></b>		
To qualify for employee executive exemption, <b>all</b> of the following must be met	<b>Yes</b>	<b>No</b>
➤ The employee must be compensated on a salary basis (as defined in the regulations) at a rate of not less than \$684 per week (\$1,368 biweekly)	<input type="checkbox"/>	<input type="checkbox"/>
➤ Salary must meet NYS salary minimum threshold as outlined in the document State Minimum Weekly Salary Rate for Exemption from Overtime Provisions	<input type="checkbox"/>	<input type="checkbox"/>
➤ The employee’s primary duty must be managing the enterprise, or <b>managing</b> a customarily recognized department or subdivision of the enterprise; and <ul style="list-style-type: none"> <li>○ <b>“managing”</b> is defined as interviewing, selecting, and training employees; setting and adjusting pay and work hours; maintaining production or sales records; appraising employee productivity and efficiency; handling employee complaints and grievances; Disciplining employees; planning and apportioning work among employees; determining the techniques to be used, the type of materials, supplies, machinery, equipment or tools to be used, or the merchandise to be bought and stocked; providing for the safety and security of employees or property; planning and controlling the budget; monitoring or implementing legal compliance</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
➤ The employee must <b>customarily and regularly</b> direct the work of at least two or more other full-time employees or their equivalent; and <ul style="list-style-type: none"> <li>○ <b>“customarily and regularly”</b> is defined as a frequency that must be greater than occasional but which, of course, may be less than constant; includes work normally recurrently performed during the workweek; does not include isolated or one-time tasks</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
➤ 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 <b>particular weight</b> <ul style="list-style-type: none"> <li>○ <b>“particular weight”</b> is defined as whether it is part of the employee’s job duties to make suggestions and recommendations; the frequency with which suggestions and recommendations are made or requested; the frequency with which the employee’s suggestions and recommendations are relied upon; suggestions and recommendations may be reviewed by a higher level manager; the exempt executive need not have authority to make</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>



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the ultimate decision; making an occasional suggestion regarding a change in status of a co-worker does not meet this standard		
<input type="checkbox"/> Test 2: <u><b>Learned Professional Exemption</b></u> To qualify for employee Learned Professional exemption, <b>all</b> of the following must be met	<b>Yes</b>	<b>No</b>
<ul style="list-style-type: none"> <li>➤ The employee must be compensated on a salary basis (as defined in the regulations) at a rate not less than \$684 per week (\$1,368 biweekly); (Positions that are exempt from this requirement are listed in the position titles chart and on the salary schedules.)</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>➤ The employee’s primary duty must be the performance of <b>work requiring advanced knowledge</b>, defined as work which is predominantly intellectual in character and which includes work requiring consistent exercise of discretion and judgment; and               <ul style="list-style-type: none"> <li>○ <b>“work requiring advanced knowledge”</b> means work which is predominantly intellectual in character, and which includes work requiring the consistent exercise of discretion and judgment. Professional work is therefore distinguished from work involving routine mental, manual, mechanical, or physical work. A professional employee generally uses the advanced knowledge to analyze, interpret, or make deductions from varying facts and circumstances. Advanced knowledge cannot be attained at a high school level.</li> </ul> </li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>➤ The advanced knowledge must be in a <b>field of science and learning</b>; and               <ul style="list-style-type: none"> <li>○ <b>“fields of science and learning”</b> include law accounting, actuarial computation, theology, teaching, physical sciences, medicine, architecture, chemical sciences, pharmacy, engineering, biological sciences and other occupations that have a recognized professional status and are distinguishable from the mechanical arts or skilled trades where the knowledge could be of a fairly advanced type, but is not in a field of science and learning.</li> </ul> </li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>➤ The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.               <ul style="list-style-type: none"> <li>○ The terms <b>“customarily acquired by a prolonged course of specialized intellectual instruction”</b> is defined as follows: The learned professional exemption is restricted to professions where specialized academic training is a standard prerequisite for entrance in the profession. The best evidence of meeting this requirement is having the appropriate academic degree. However, the word “customarily” means the exemption may be available to employees in such professions who have substantially the same knowledge level and perform substantially the same work as the degreed employees, but who attained the advanced knowledge through a combination of work experience and intellectual instruction. This exemption does not apply to occupations in which most employees acquire their skill by experience rather than by advanced specialized intellectual instruction.</li> </ul> </li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Test 3: <u><b>Creative Professional Exemption</b></u> To qualify for employee creative professional exemption, <b>all</b> of the following must be met	<b>Yes</b>	<b>No</b>
<ul style="list-style-type: none"> <li>➤ The employee must be compensated on a salary basis (as defined in the regulations) at a rate not less than \$684 per week (\$1,368 biweekly)</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>➤ The employee's primary duty must be the performance of work requiring <b>invention, imagination, originality or talent</b> in a <b>recognized field of artistic or creative endeavor</b>.               <ul style="list-style-type: none"> <li>○ This requirement distinguishes the creative professions from work that primarily depends on intelligence, diligence and accuracy. Exemption as a creative professional depends on the extent of the <b>invention, imagination, originality or talent</b> exercised by the employee. Whether the exemption applies, therefore, must be determined on a case-by-case basis. The requirements are generally met by actors, musicians, composers, soloists, certain painters, writers, cartoonists, essayists, novelists, and others as set forth in the regulations. Journalists may satisfy the duties requirements for the creative professional exemption if their primary</li> </ul> </li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>



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<p>duty is work requiring invention, imagination, originality or talent. Journalists are not exempt creative professionals if they only collect, organize and record information that is routine or already public, or if they do not contribute a unique interpretation or analysis to a news product.</p> <ul style="list-style-type: none"> <li>○ <b>"Recognized field of artistic or creative endeavor"</b> includes such fields as music, writing, acting and the graphic arts.</li> </ul>		
<p><input type="checkbox"/> Test 4:</p> <p><b><u>Computer Professional Exemption</u></b></p> <p>To qualify for employee computer professional exemption, <b>all</b> of the following must be met</p>	<b>Yes</b>	<b>No</b>
<ul style="list-style-type: none"> <li>➤ The employee must be compensated on a salary basis (as defined in the regulations) at a rate not less than \$684 per week (\$1,368 biweekly); <b>OR</b> a minimal \$27.63 hourly rate of compensation</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>➤ Employed as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer field performing the following duties: <ul style="list-style-type: none"> <li>A. Application of systems analysis techniques and procedures, including consulting with users to determine hardware, software, or system functional applications; <b>OR</b></li> <li>B. 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; <b>OR</b></li> <li>C. Design, documentation, testing, creation or modification of computer programs related to machine operating systems; <b>OR</b></li> <li>D. A combination of duties described in (A), (B) and (C), the performance of which requires the same level of skills</li> </ul> </li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<p><input type="checkbox"/> Test 5:</p> <p><b><u>Administrative Exemption</u></b></p> <p>To qualify for employee administrative exemption, <b>all</b> of the following must be met</p>	<b>Yes</b>	<b>No</b>
<ul style="list-style-type: none"> <li>➤ The employee must be compensated on a salary basis (as defined in the regulations) at a rate not less than \$684 per week (\$1,368 biweekly)</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>➤ Salary must meet NYS salary minimum threshold as outlined in the document State Minimum Weekly Salary Rate for Exemption from Overtime Provisions</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>➤ The employee's primary duty is the performance of office or non-manual work directly related to the <b>management or general business operations</b>, and <ul style="list-style-type: none"> <li>○ <b>"management or general business operations"</b> refers to the type of work performed by the employee. Work must be directly related to assisting with the running or servicing of the business. The administrative exemption does not include work performed on a manufacturing production line or selling a product in a retail or service establishment. Fields that satisfy the administrative exemption include: tax, finance, accounting, budgeting, auditing, insurance, quality control, purchasing, procurement, advertising, marketing, research, safety and health, human resources, employee benefits, labor relations, public and government relations, legal and regulatory compliance, computer network, internet and database administration.</li> </ul> </li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>➤ Exercises <b>discretion and independent judgment</b> with respect to matters of significance. <ul style="list-style-type: none"> <li>○ The comparison and evaluation of possible courses of conduct, and acting or making a decision after the various possibilities have been considered. Must be exercised with respect to "matters of significance," which refers to the level of importance or consequence of the work performed. Decisions and recommendations may be reviewed at a higher level and, upon occasion, revised or reversed.</li> </ul> </li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>



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<ul style="list-style-type: none"><li>○ <b>"Discretion and independent judgment"</b> includes, but is not limited to: whether the employee has authority to formulate, affect, interpret, or implement management policies or operating practices; whether the employee carries out major assignments in conducting the operations of the business; whether the employee performs work that affects the business operations to a substantial degree, even if the employee's assignments are related to operation of a particular segment of the business; whether the employee has authority to commit the employer in matters that have significant financial impact; whether the employee has authority to waive or deviate from established policies and procedures without prior approval; whether the employee has authority to negotiate and bind the company on significant matters; whether the employee provides consultation or expert advice to management; whether the employee is involved in planning long- or short-term business objectives; whether the employee investigates and resolves matters of significance on behalf of management; whether the employee represents the company in handling complaints, arbitrating disputes or resolving grievances.</li><li>○ <b>"Discretion and independent judgment"</b> does <b>NOT</b> include: applying well-established techniques, procedures or specific standards described in manuals or other sources; clerical or secretarial work; recording or tabulating data; performing mechanical, repetitive, recurrent or routine work.</li></ul>		
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Based on these guidelines, this position is declared:  Exempt  Non-Exempt

HR Signature: \_\_\_\_\_

Date: \_\_\_\_\_