

## **General Personnel**

### **Administrative Procedure - Fair Labor Standards Act Exemptions**

**Important** - School officials should contact the Board Attorney for application of the Fair Labor Standards Act to specific situations. The information contained in this procedure, and any information provided in the hyperlinks contained in it, should be confirmed with the Board Attorney before its application to a specific situation.

#### **Overview**

- An exempt employee in Illinois is “any employee employed in a bona fide executive, administrative or professional capacity, ... as defined by or covered by the Federal Fair Labor Standards Act of 1938 and the rules adopted under that Act, as both exist on March 30, 2003, but compensated at the amount of salary specified [current federal rules].” 820 ILCS 105/4a.
- According to the U.S. Dept. of Labor’s (DOL’s) rules, “[t]o qualify as exempt executive, administrative or professional employee,... an employee must be compensated on a salary basis at a rate of not less than \$684 per week.” 29 C.F.R. §541.600.
- Guidance on the DOL’s website includes:

*Exemptions from overtime pay provisions:* [www.dol.gov/elaws/esa/flsa/screen75.asp](http://www.dol.gov/elaws/esa/flsa/screen75.asp)

*Exempt vs. non-exempt status of a particular job:* [www.dol.gov/elaws/esa/flsa/overtime/jobs.htm](http://www.dol.gov/elaws/esa/flsa/overtime/jobs.htm)

<b>FLSA Exemption Category</b>	<b>Staff Positions</b>
Non-covered persons	Independent contractors: <a href="http://www.dol.gov/elaws/esa/flsa/docs/contractors.asp">www.dol.gov/elaws/esa/flsa/docs/contractors.asp</a> Volunteers: <a href="http://www.dol.gov/elaws/esa/flsa/docs/volunteers.asp">www.dol.gov/elaws/esa/flsa/docs/volunteers.asp</a> Student teachers who: (1) receive academic credit for their work experience, (2) do not displace regular employees, (3) work under close supervision, and (4) are not entitled to a job at the end of their training ( <a href="http://www.dol.gov/whd/opinion/FLSA/2006/2006_04_06_12_FLSA.htm">www.dol.gov/whd/opinion/FLSA/2006/2006_04_06_12_FLSA.htm</a> )
Executive employees	Superintendent Associate/Assistant Superintendents Directors Supervisors Other department managers
Administrative employees	Building Principals Assistant Principals Data systems analysts or computer programmers involved in obtaining solutions to complex business problems: <a href="http://www.dol.gov/agencies/whd/fact-sheets/17e-overtime-computer">www.dol.gov/agencies/whd/fact-sheets/17e-overtime-computer</a> Other certificated administrative staff
Professional employees	Teachers Counselors Registered nurses Media coordinators Other non-supervising certificated staff

FLSA Exemption Category	Staff Positions
Non-exempt employees	Secretaries (includes administrative assistants) Receptionists Bookkeepers Cafeteria workers Crossing guards Before/after school program workers Bus drivers/transportation workers Computer lab managers Custodians Maintenance workers Pre-school workers (whose primary duty is to care for physical needs of children rather than teaching; does <i>not</i> include licensed special education early childhood teachers) Teacher aides, paraprofessionals, and assistants

APPROVED: November 10, 2020