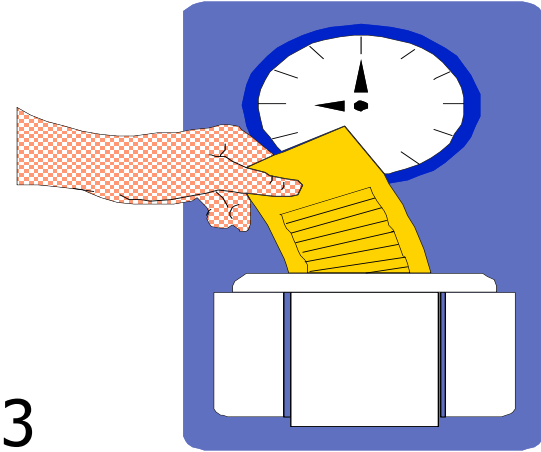


# Overview of FLSA

- Minimum Wage
- Child Labor
- Overtime Provisions
- Equal Pay Amendment - 1963



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Original Act – 1938

State and Local Government – Applicability

.....Amendments 1966, 1972, 1973

.....Garcia Vs. San Antonio MTA Ap.1985

Enforcement – Courts or DOL

FLSA only establishes the minimums

## BASIC RULE:

Everyone is HOURLY except for exceptions.

### What Does That Mean?

1. If *not exempt* and the employee works more than 40 hours a week, OT pay is required.
2. If *exempt*, the employee is SALARIED (paid fixed compensation) and OT pay is NOT required.

# Categorical Exemptions

- ▶ Elected officials
  - Must be paid fixed salary based on Idaho Code
- ▶ Teachers
- ▶ Attorneys and doctors
  - (When performing legal / medical work)

# Job Duty Exemptions

An employee may be **exempt** IF:

- ▶ Paid more than \$455 per week; **and**
- ▶ Fits into 1 of 6 categories:
  - Executive;
  - Administrative;
  - Professional;
  - Computer Personnel;
  - Highly Compensated; or
  - Outside Salesman.

# *“EXECUTIVE” EMPLOYEES*

The Employee MUST:

1. Be paid a salary of at least \$455/week; AND
2. **Primary duty** is to **manage** the business or a recognized department, division or subdivision; AND
3. Customarily and regularly supervises and directs the work of 2 or more full-time employees; AND
4. Has the authority to hire or fire other employees or is able to make these recommendations and that recommendation is given a “**particular weight**”.--(new)

# ***DEFINITIONS:***

**“Primary Duty”** – the main, major or most important job duty.

**“Manage”** – manages employees, projects, and processes.

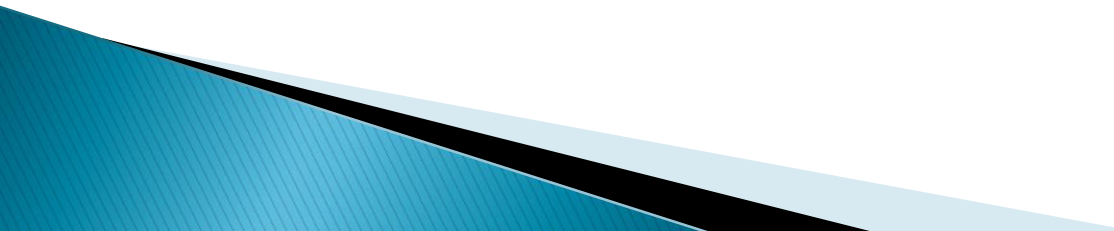
- Selecting employees; directing their work; disciplining employees; determining budgets; handling complaints; evaluations; etc.

**“Particular Weight”** – To determine, ask:

- Is it part of their job duties?
- Is their opinion frequently relied upon?

# ADMINISTRATIVE EMPLOYEES

The Employee MUST:

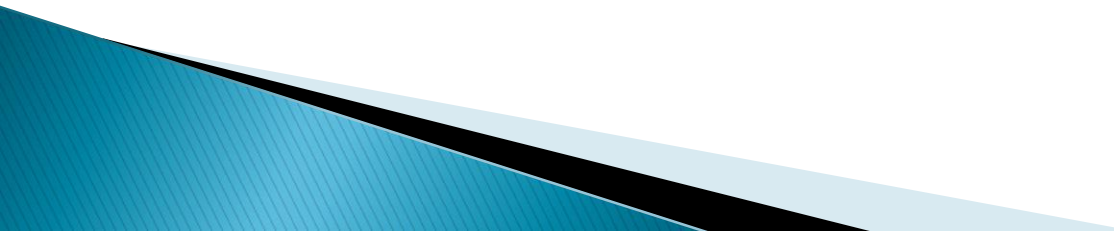
1. Be paid a salary of at least \$455/week; AND
  2. Have duties that consist of office or non-manual work “directly related to management” and not part of the production process; AND
  3. Exercise discretion and independent judgment with respect to “matters of significance”.
- 

# PROFESSIONAL EMPLOYEES

Or

## The “Learned” Professional

### The Employee MUST:

1. Be paid a salary of at least \$455/week;  
AND
  2. Have an advanced type of knowledge gained by “prolonged” study; OR
  3. Talent in a recognized field of artistic or creative endeavor.
- 

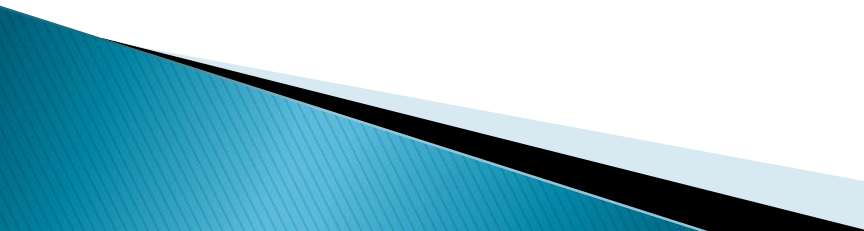


# WEEKLY TIMESHEET

	WED	THUR	FRI	SAT
START				
FINISH				
ORD				
O/T @ 1.5				
O/T @ 2.0				
	9:00	9:00	8:30	
	5:00	5:00	6:00	
	8	8	8	
				1



# Time Sheets

- ▶ Need to be honest.
  - ▶ Policy should state time to round to.(1/4 hr.?)
  - ▶ Signed by employee and supervisor.
  - ▶ Documentation for payroll.
  - ▶ Corrections acknowledged by employee.
  - ▶ Comply with FLSA records requirements.
  - ▶ Beware of “off the clock” work.
- 


# Tracking OT

- ▶ Time clock
- ▶ Time sheet – specify rounding times
- ▶ Document exceptions
  - This is often used with “Salary” where OT is required.
  - As a public employer you may balance out with Comp Time

# POLICE AND FIRE EXCEPTIONS

- ▶ Comp time up to 480 hr max (240 for all others) – limits should be lower by policy.
- ▶ “Small” law enforcement agencies.
  - 5 or less officers, does not apply to support staff.
  - May be completely exempt, look to policy.
- ▶ Section 7(k)
  - Work periods up to 28 days
  - Premium (1.5)time beyond 212 hrs. for fire.
  - 171 for police.

# Other Issues to Consider

- ▶ Travel
  - ▶ Training
  - ▶ Volunteers
  - ▶ Sick and Vacation – or PTO
    - Make sure your policy is clear and similar to your practice!
- 

# Avoid FLSA Trouble

- ▶ Periodically review those considered exempt to make sure they still qualify – document
- ▶ Make sure that “contractors” are not really employees
- ▶ Have honest time sheets
  - Have all time sheets reviewed and initialed by a supervisor
  - Make sure that no one is keeping time “off the books” – (answering e-mails?)

# Hypothetically

Josie is the County's emergency management coordinator. She normally works a 20 hr. week and is paid hourly at \$20/hr. She works without a lot of supervision and represents the County at conferences as well as setting up and facilitating a variety of trainings and drills with other agencies in the region. She clearly is important in making and recommending policy decisions.

She has recently come to the Board asking to be exempt so that she will not have to account for time on a time sheet and can work the extra time needed when disasters occur.

Can Josie be an Exempt Employee?

A. No

B. Yes

C. Only if she signs an agreement to not claim overtime

D. Yes but only if she is paid more

E. None of the above



# Can Josie be an Exempt Employee?

A. No

B. Yes

C. Only if she signs an agreement to not claim overtime

**D. Yes but only if she is paid more**

E. None of the above

- ▶ **Thanks for your time & attention!**
- ▶ **Please don't hesitate to call ICRMP if you or your Attorney have questions.**

