

## ADMINISTRATIVE EXEMPTION

To qualify for the administrative employee exemption, **all** of the following tests must be met.

1. The employee must be compensated on a salary basis at a rate not less than \$455 per week;
2. The employee's primary duty must be 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; and
3. The employee's primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

### TERMS DEFINED:

**Salary Basis-** Being paid on a "salary" basis means an employee regularly receives a predetermined amount of compensation each pay period on a weekly, or less frequent, basis. The predetermined amount cannot be reduced because of variations in the quality or quantity of the employee's work. Subject to exceptions listed below, an exempt employee must receive the full salary for any week in which the employee performs any work, regardless of the number of days or hours worked.

**Primary Duty-** "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.

**Directly Related to Management or General Business Operations-** Refers to the type of work performed by the employee who must perform work directly related to assisting with the running or servicing of the business, as distinguished, for example, from working on a production line or selling a product in a retail or service establishment. Work "directly related to management or general business operations" includes, but is not limited to, work in functional areas such as:

Finance, Accounting, Budgeting, Auditing	Purchasing, Procurement	Public & Government Relations
Quality Control	Research	Marketing & Advertising
Computer Network, Internet & Database Administration	Safety and Health	Legal & Regulatory Compliance

Appalachian State University  
New Guidelines Regarding the Fair Labor Standards Act (FLSA)  
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**Employer's Customers-** Means those employees who are acting as advisors or consultants to their employer's clients or customers. For example, financial or educational consultants may be exempt.

**Discretion and Independent Judgment-** In general, the exercise of discretion and judgment involves the comparison and the evaluation of possible course 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.

**Matters of Significance-** 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 employer's equipment may cause serious financial loss to the employer.