

University of Delaware
Fair Labor Standards Act – Exempt/Non-Exempt Determination Form

Exempt/Non-Exempt status is based on regulations outlined under the Fair Labor Standards Act. Generally, exemption from the Act is determined by a salary basis test, minimum salary test, and job duties, which must meet the Department of Labor’s standards for one of the four categories discussed below. See: Department of Labor, Wage and Hour Division, Fact Sheet #17A.

Department of Labor, Wage and Hour Division Fact Sheets	
#17A http://www.udel.edu/002665	#17D http://www.udel.edu/002667
#17C http://www.udel.edu/002666	#17E http://www.udel.edu/002214

After reviewing Fact Sheet #17A, please answer the following questions for each worker that, in your opinion, could be classified as exempt. For all requests, please provide information on all the following:

Proposed Job Title:	Employee Name:
	Empl ID (if available):
Date of Hire (if applicable):	Department:
Weekly Compensation Amount:	Supervisor:
Semi-Monthly Compensation Amount:	Date Completed:
Period Covered/Contract Dates:	Completed By:
Weekly Hours:	
Context of the position:	
Brief description of at least three major responsibilities of the job, and required minimum education and experience.	

Signature (College Business Officer/Unit HR Manager)

Date

Please submit the completed form to Compensation & Benefits (hr-class@udel.edu). Compensation will respond to the applicable College Business Officer/Unit HR Manager with a determination of the FLSA status. Note, if the job changes and/or compensation drops lower than the amount indicated for the applicable exemptions, a new determination form must be completed prior to the approval of any change.

A. ADMINISTRATIVE EMPLOYEE. See: Department of Labor, Wage and Hour Division, Fact Sheet #17C. Answer the following to determine whether a worker should be classified as an exempt administrative employee.

1. Is the employee's primary duty performing office or non-manual work directly related to the management or general business operations of the University or its customers?

Yes No Don't Know

2. Does the employee exercise discretion and independent judgment with respect to matters of significance? That is, does he/she evaluate and compare possible courses of action and then make a decision or recommendation after considering the various possibilities?

Yes No Don't Know

3. Is the employee compensated on a salary or fee basis at a rate not less than \$913 per week?

Yes No Don't Know

B. LEARNED PROFESSIONAL EMPLOYEE. See: Department of Labor, Wage and Hour Division, Fact Sheet #17D. Answer the following to determine whether a worker should be classified as an exempt learned professional:

1. Is the employee's primary duty to perform work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction?

Yes No Don't Know

2. Is the advanced knowledge obtained by completing an academic course of study resulting in a four-year college degree or leading to certification?

Yes No Don't Know

3. Is the employee compensated on a salary or fee basis at a rate not less than \$913 per week?

Yes No Don't Know

Exception: Those who've completed the educational requirements for a law or medical degree need not meet the minimum salary requirement. Also, teachers need not be certified or meet the minimum salary requirement to qualify as learned professionals.

C. CREATIVE PROFESSIONAL EMPLOYEE. See: Department of Labor, Wage and Hour Division, Fact Sheet #17D. Answer the following to determine whether a worker should be classified as an exempt creative professional:

1. Is the employee's primary duty to perform work requiring invention, originality or talent in a recognized field of artistic endeavor such as music, writing, acting and the graphic arts?

Yes No Don't Know

2. Does the work require more than intelligence, diligence and accuracy (i.e., does it require "talent")?

Yes No Don't Know

3. Is the employee compensated on a salary or fee basis at a rate not less than \$913 per week?

Yes No Don't Know

D. **COMPUTER PROFESSIONAL.** See: Department of Labor, Wage and Hour Division, Fact Sheet #17E. Answer the following to determine whether a worker should be classified as an exempt computer professional:

1. Is the employee paid at least \$913 per week on a salary or fee basis or, if paid hourly, at a rate of not less than \$27.63 per hour?

Yes No Don't Know

2. Is the employee's primary duty:

• Application of system analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications;

Yes No Don't Know OR

• 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;

Yes No Don't Know OR

• Design, testing, documentation, creation or modification of computer programs related to machine operating systems;

Yes No Don't Know OR

• A combination of the aforementioned duties requiring the same level of skills?

Yes No Don't Know

For Office of Human Resources Use Only

Determination:

Exempt Non-Exempt (process necessary documentation to include in UD Time and pay on an hourly basis)

<input type="checkbox"/> Administrative	<input type="checkbox"/> Learned Professional
<input type="checkbox"/> Creative Professional	<input type="checkbox"/> Computer Professional

Classification & Compensation

Date

cc: CBO or HR Manager
HR Systems