



Exclusion from the FLSA Salary Threshold \ Definitions

Teachers

Teachers are exempt if their primary duty is teaching, tutoring, instructing or lecturing in the activity of imparting knowledge, and if they are employed and engaged in this activity as a teacher in an educational establishment. Having a primary duty of teaching, tutoring, instructing or lecturing in the activity of imparting knowledge includes, by its very nature, exercising discretion and judgment. The salary and salary basis tests do not apply to positions that meet the definition of teacher under the FLSA.

Exempt teachers include, but are not limited to, professors, adjunct instructors, lecturers, teaching assistants; kindergarten or nursery school teachers; teachers of skilled and semi-skilled trades and occupations; teachers engaged in automobile driving instruction; home economics teachers; and vocal or instrument music teachers. Individuals are not required to possess a teaching certification in order to qualify for this exemption.

The regulations surrounding teachers and qualification for the exemption do not specify where the teaching must take place. Individuals who teach online or provide instruction to non-credit learners may also qualify for this exemption. For example, the exemption could apply to an agricultural extension agent who is employed by an educational establishment to travel and provide instruction to farmers, if the agent's primary duty is teaching, instructing, or lecturing to impart knowledge.

Practitioners of Law or Medicine

An employee holding a valid license or certificate permitting the practice of law or medicine is exempt if the employee is engaged in such a practice that is their primary duty. An employee who holds the requisite academic degree for the general practice of medicine is also exempt if he or she is engaged in an internship or resident program for the profession. The salary and salary basis requirements do not apply to practitioners of law or medicine as defined by the FLSA.

"Physicians" includes medical doctors including general practitioners and specialists, osteopathic physicians (doctors of osteopathy), veterinarians, podiatrists, dentists (doctors of dental medicine), and optometrists (doctors of optometry or bachelors of science in optometry). In the case of occupations in the medical field, the exception from the salary or fee requirement does not apply to pharmacists, nurses, therapists, technologists, sanitarians, dieticians, social workers, psychologists, psychometrists, physician assistants, nurse practitioners, or other professions which service the medical profession.



Non-employees

Some UW-Madison titles do not receive a salary or payment as wages and therefore do not meet the definition of employee under the FLSA. Non-employees are not impacted by the Department of Labor (DOL) FLSA changes. There are also some UW-Madison titles used for student employees in which the student receives a salary or wages, but the primary benefit of the labor is to the student rather than the institution. When determining whether a given student is an employee such that the institution must pay minimum wage and meet recordkeeping obligations, the institution should balance the educational value the student receives against the benefit the institution derives from the student's labor. If the primary beneficiary of the student's labor is the student, then the payment is more akin to financial aid or assistance because there is little "service" component to the relationship and therefore the student may be treated as a non-employee and there is no application of FLSA minimum wage, recordkeeping, or overtime requirements.

Academic Administrator

There are special provisions for positions defined by the FLSA as Academic Administrators. Positions that meet the definition of Academic Administrator must still meet the salary basis test, but they have a lower salary threshold than the current DOL FLSA standard. The salary threshold for these positions is set at the entrance salary for teachers at the institution. At UW-Madison, the minimum teacher salary has been set as the minimum of the range for the Lecturer position (\$43,071 annually, as of June 2024).

Camp Counselor

Section 13(a)(3) of the Fair Labor Standards Act provides an exemption from the minimum wage and overtime provisions of the FLSA for "any employee employed by an establishment which is an amusement or recreational establishment, if (A) it does not operate for more than seven months in any calendar year, or (B) during the preceding calendar year, its average receipts for any six months of such year were not more than 33-1/3 per centum of its average receipts for the other six months of such year."

To be exempt under Section 13(a)(3), the position in the camp must be the only UW-Madison employment the employee has during the camp's operation. If a current UW-Madison employee wishes to work at the camp, they must take a leave from their current position for the exemption to apply.

