

State of Wisconsin

DOA – DIVISION OF PERSONNEL MANAGEMENT

- CLASSIFICATION AND COMPENSATION BULLETIN -

Date: December 20, 2019

Locator No: DPM-0509-CC/POL

Subject: Treatment of Certain Classifications
Following the January 1, 2020, Revision to
the FLSA Salary Test

The purpose of this bulletin is to provide guidance on the application of the Fair Labor Standards Act (FLSA) to certain classifications within the state following the revision to the salary test by the Department of Labor's Wage and Hour Division. Agencies are reminded to refer to Chapter 520 of the *Wisconsin Human Resources Handbook* for additional guidance. The guidance in this bulletin will remain in effect until rescinded or modified.

BACKGROUND INFORMATION

On September 24, 2019, the Department of Labor announced the final rule change to modify the earnings threshold necessary to exempt executive, administrative and professional employees from the FLSA. Effective January 1, 2020, the minimum weekly rate is revised to \$684 per week. This will impact a number of state classification titles, including those within Pay Range (PR) 12-64. While other titles will be addressed through updates to the classification plan, this bulletin addresses the titles currently designated as exempt in PR 12-64.

While this rule will impact any employee who no longer meets the revised salary test rules, it also has the potential to affect future employees who are hired into these classifications. The following titles will no longer always meet the salary test rule for full-time, permanent employees following the implementation of the Department of Labor's revision:

<u>Classification Title</u>	<u>Class Code</u>	<u>Pay Range</u>	
APPRENTICESHIP TRAINING REP	48000	12	64
CHAPLAIN	53201	12	64
CHILD CARE SUBSIDY SPEC-SENIOR	54303	12	64
CLIENT RIGHTS FACILITATOR	50500	12	64
DWD EQUAL RIGHTS OFF-JRNY	73502	12	64
LABOR COMPLIANCE SPEC-JRNY	73602	12	64
LABOR COMPLIANCE SPEC-SEN	73603	12	64
MEDICAL RECORDS LIBRARIAN	57600	12	64
MEMBER FINANCE SPECIALIST-SR	49552	12	64
PSYCHOLOGICAL SERVICES ASST	52560	12	64
REHABILITATION CASE COORDINATOR	52710	12	64
SOCIAL WORKER	50862	12	64
TREATMENT SPECIALIST 1	50201	12	64

VETERANS BENEFIT SPECIALIST 1	50701	12	64
VETERANS BENEFIT SPECIALIST 2	50702	12	64
VETERANS CLAIMS OFFICER 1	50771	12	64
VICTIM SERVICES SPECIALIST	53903	12	64
VICTIM SERVICES SPECIALIST-ADV	53904	12	64
VOCATIONAL REHAB SPEC	49301	12	64
VOLUNTEER COORDINATOR	23700	12	64

POLICY GUIDANCE FOR AFFECTED CLASSIFICATIONS

The Division of Personnel Management will **not** be updating the typical FLSA category for these classification titles on the Alpha List. While this bulletin remains in effect, agencies should **not** rely upon Alpha List or treat employees within the classifications designated above as exempt from the FLSA until they have verified that the employees earn, or are expected to earn in the case of a new appointment, at least \$684 per week (and otherwise meet the requirements of the appropriate exemption).

As specified in Sec. 520.060 of the *Wisconsin Human Resources Handbook*, the alphabetical listing of classifications provides the “typical categorizations of employees as exempt or nonexempt by classification title.” However, this “designation is only a guide and is not intended to serve as the actual exemption of exempt or nonexempt status of individual employees. **Appointing authorities must assess on a case-by-case basis, the proper designation of an employee...**” (emphasis added)

As a reminder, employees who are not full time or who have alternative work schedules must always be monitored to ensure they meet the minimum weekly salary test. The minimum salary test is not averaged between any number of weeks and must be looked at on a weekly basis.

This bulletin is effective December 22, 2019, and agencies should complete a review of all future appointments effective on or after that date. This bulletin will remain in effect until modified or rescinded.

FUTURE UPDATES

The Bureau of Classification and Compensation will continue to monitor these and all classifications and provide updates as needed. The 2019-2021 Compensation Plan modifies the PR 12-64 minimums over the remaining portion of the biennium. Unless those changes are otherwise modified, this bulletin will be rescinded and normal procedure resumed when those minimums are increased. Upon publication of this bulletin, these minimums are expected to be above the minimum threshold as of January 3, 2021, following the second GWA provided for in the 2019-2021 Compensation Plan.

This bulletin will serve as the sole source of notification for these titles. Agencies are reminded that employees who are incorrectly categorized are eligible to claim backpay for a period of two years. Willful or repeated violations by an employer could increase that period and cause the employer to be subject to further penalties.

Questions regarding the information included in this bulletin should be directed to Peter Flood by phone at (608) 213-7147 or by e-mail at Peter.Flood@wisconsin.gov; or, Wil Mickelson by phone at (608) 267-5169 or by email at Wil.Mickelson@wisconsin.gov.

A handwritten signature in black ink, appearing to read "Scott C. Thompson", written over a horizontal line.

Scott C. Thompson, Director
Bureau of Classification and Compensation