

State of Wisconsin

DOA – DIVISION OF PERSONNEL MANAGEMENT

- CLASSIFICATION AND COMPENSATION BULLETIN -

Date: March 14, 2025

Locator No: DPM-0637-CC/POL

Subject: Application of Policy for the FLSA Salary Basis Test

The purpose of this bulletin is to provide guidance on the application of the Fair Labor Standards Act (FLSA) as it pertains to the application of the salary basis test. Agencies and Human Resources Offices are reminded to refer to *Wisconsin Human Resources Handbook* Chapter 520 Fair Labor Standards Act (FLSA) for additional guidance. The guidance in this bulletin will remain in effect until rescinded or modified.

BACKGROUND INFORMATION

On April 26, 2024, 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 July 1, 2024, the minimum weekly rate was revised to \$844 per week, with an additional adjustment to \$1128 per week effective January 1, 2025, and a new threshold to be established July 1, 2027, and every three years thereafter. The Division of Personnel Management worked with state agencies in the summer of 2024 to effectuate the July 1 changes.

On November 15, 2024, a federal judge struck down the Department of Labor’s FLSA overtime rule, voiding all components of the rule including the July 2024 salary threshold and all planned future updates that were part of the new rule. This resulted in a reversion to the pre-July 2024 threshold (\$684 per week). That ruling has been appealed.

POLICY GUIDANCE FOR STATE AGENCIES

With the litigation pending, the Division of Personnel Management will **not** be changing prior guidance that was effective July of 2024, and agencies **must** continue to use the \$844/per week (\$1688 / bi-weekly) standard to determine an employee’s exemption status until further notice. This means that any employee whose categorization under the FLSA changed and became nonexempt effective July 1 will remain so, and any employee hired after July 1, who does not meet this same standard (i.e., paid on a salary basis, as defined by the FLSA, of \$844 per week; \$1688 / bi-weekly), must also be changed to, or remain, nonexempt.


Agencies and supporting Human Recourses Personnel are also reminded that, as they were notified in November, they can look at salary biweekly to determine whether an employee meets the salary basis test. As always, changes in an employee’s FLSA categorization must be approved by the Bureau of

Classification and Compensation in accordance with *Wisconsin Human Resources Handbook* Chapter 520 Fair Labor Standards Act (FLSA) and established procedures.

FUTURE UPDATES

The Bureau of Classification and Compensation will continue to monitor for updates and related litigation. This bulletin will serve as the sole source of notification for these titles.

Questions regarding the information included in this bulletin should be directed to Peter Flood by phone at (608) 266-8149 or by e-mail at Peter.Flood@wisconsin.gov; or, Amanda Eischen by phone at (608) 266-1729 or by email at Amanda.Eischen@wisconsin.gov.

Signed by:

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