**The Fair Labor Standards Act (FLSA): Executive, Administrative and Professional Exemptions**

Section 13(a)(1) of the FLSA provides an exemption from both minimum wage and overtime pay for employees who are employed in a bona fide executive, administrative, professional or outside sales position.

There are three tests for this exemption; salary level, salary basis and job duties.

On May 23, 2016 a final rule was published to increase the salary level effective December 1, 2016. The weekly salary level increased from $455 to $913. Every three years beginning January 1, 2020, the standard salary levels will be automatically updated.

Current positions affected:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Position | Current Weekly | Required  |  Difference | Hourly Increase | Currently Works Above and Beyond Contract |
| Admin Network |  $890.00 |  $913.00 |  $ 23.00 |  $ .58 |  no |
| Cafeteria Manager |  $678.80 |  $913.00 |  $234.20 |  $5.86 |  frequently |
| Cafeteria Manager |  $622.80 |  $913.00 |  $290.20 |  $7.26 |  occasionally |
| Cafeteria Manager |  $640.80 |  $913.00 |  $272.20 |  $6.81 |  frequently |
| Cafeteria Manager |  $687.60 |  $913.00 |  $225.40 |  $5.64 |  occasionally |
| Childcare Director |  $742.80 |  $913.00 |  $170.20 |  $4.26 |  occasionally |
| Childcare Team Leader |  $589.60 |  $913.00 |  $323.40 |  $8.09 |  occasionally |
| Grant Writer |  $812.80 |  $913.00 |  $100.20 |  $2.51 |  seldom |
| Head Bus Mechanic |  $790.40 |  $913.00 |  $122.60 |  $3.07 |  occasionally |
| Personnel Manager |  $904.80 |  $913.00 |  $ 8.20 |  $ .21 |  frequently |
| School Nutrition Manager |  $758.80 |  $913.00 |  $154.20 |  $3.86 |  occasionally |

Three options to consider;

1. Increase the pay to the required amount.
2. Pay the overtime as worked.
3. Establish policy that allows for the accrual of compensatory time (pay).

Overtime issues to consider:

1. What is causing certain employees to work overtime frequently? What can be done to reduce these hours from frequently to occasionally?

Compensatory pay issues to consider:

1. Employees must voluntarily request compensatory pay in lieu of wages.
2. Six of the above employees are contracted 240 days or less. It may be difficult to schedule compensatory time off.
3. Employees must be permitted to use compensatory time on the date requested unless doing so would ‘unduly disrupt’ the operations of the agency.
4. Compensatory time, if not used, is to be paid at the full rate of time and a half.
5. State and local government employees may accrue up to 240 hours of compensatory time (160 worked hours).