

VLCT Municipal Assistance Center

Human Resources-Employment Law
Workshop
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Human Resources Assistance Program

MISSION:

To serve and strengthen Vermont local governments by delivering quality HR services in an innovative and cost-conscious manner.

New and Updated VLCT Resources

- Model Personnel Policy
- Employment Law Handbook
- Samples and templates
- Self-assessment tool
- Hot topics: “ban the box”, sick leave mandate, OT, independent contractor
- HR web page
- Municipal HR professional group
- MAC-HR@vlct.org

U.S. DOL Changes to Fair Labor Standards Act (FLSA) overtime Rules



Overtime Requirements



- 1 ½ times employee's regular rate of pay for each hour worked above 40 in a work week
- Local governments -- option of compensatory time at same rate
 - DOL fact sheets:
<https://www.dol.gov/whd/regs/compliance/whdfs7.pdf>

FLSA does not apply to

- Elected officials
- Volunteers
- Independent contractors
- “White collar” exemptions as defined by U.S. DOL

“White Collar” Exemptions

- Executive
- Administrative
- Professional
- Highly Compensated Employee
- Computer Employee
- Outside Sales

To be Exempt

1. “Job duties test” for each white collar exemption; not changing under new rules. See DOL fact sheet- https://www.dol.gov/whd/overtime/fs17a_overview.pdf **AND**
2. Same minimum weekly salary (some exceptions) regardless of quantity* or quality of work;

*don't have to pay in weeks when no work is performed

Before this change

- Low salary threshold - rarely needed to be considered
- \$455 per week (\$23,660 per year)

Effective December 1, 2016

- Minimum salary threshold effectively doubling
 - **\$913 per week (\$47,476 per year)**
- Highly compensated employee increasing to **\$134,004**
- Automatic update every 3 years
 - Next increase - January 1, 2020
 - Estimated at \$51,000

Get Ready



- Which employees are currently exempt?
- Do they week earn at least \$913 per week (\$47,476/year?)
- If not, how much less?
- Do they work more than 40 hours per week?
- If yes, what is estimated OT cost?

Options

1. Exempt status: Raise salary to minimum threshold
2. Non-exempt status:
 - Hire part-time staff to reduce OT
 - Overtime policy -- can require pre-authorization
 - Compensatory time policy
 - Pay overtime and/or provide comp time
 - Review practices, e.g. working from home
 - No budget effect if they don't work more than 40/week

Additional twists



- Union contracts and negotiations
- Any positions where one employee Exempt and one Non-exempt?

HR To-do List

- Evaluate positions and employee salaries
 - Excellent opportunity to review *all* exempt status
- Examine and understand overtime – necessary?
- Policy additions/updates needed?
- Communicate changes to employees
- Need accurate timekeeping for non-exempt employees
- Revise job descriptions to reflect classification changes

Resources

- US Department of Labor
 - <https://www.dol.gov/whd/overtime/final2016/>
- VLCT
 - HR web page:
<http://www.vlct.org/municipal-assistance-center/human-resources-assistance-program/>
 - Phone 800.679.7915
 - Email: MAC-HR@vlct.org



Thank you!