

LDH Fair Labor Standards Act Policy

	Louisiana Department of Health (LDH)	
	Policy Number	49.1
	Content	Policy and procedures concerning the exempt and non-exempt status of positions within The Louisiana Department of Health
	Effective Date	August 23, 2004
	Inquiries to	Office of Management and Finance Division of Human Resources, Training and Staff Development P. O. Box 4818 Baton Rouge, Louisiana 70821-4818 (225) 342-6477 FAX: (225) 342-6892

If there is a discrepancy between an LDH Policy and a Program Office or facility policy, the LDH policy shall govern/override/supersede the conflicting section within the Program Office or facility policy.

I. POLICY STATEMENT

It shall be the policy of The Louisiana Department of Health (LDH) to establish the exempt/non-exempt status of every position within LDH in accordance with the Fair Labor Standards Act (FLSA) and the provisions of this policy. This policy is intended to assure that all employees are designated appropriately for duties actually being performed. All employees shall comply with the provisions of the FLSA which takes precedence over this policy, State Law, and State Civil Service Rules.

II. APPLICABILITY

This policy shall apply to all positions with LDH covered by the FLSA.

III. EFFECTIVE DATE

The effective date of this policy is August 23, 2004.

IV. DEFINITIONS

Exempt employees: Exempt employees are those employees who meet the executive, administrative, professional, computer or special exemption requirements outlined in the FLSA and, therefore, are not entitled to overtime compensation (compensatory time or cash payment) under the FLSA. Civil Service Rules do allow for an exempt employee to be compensated for overtime.

Fair Labor Standards Act (FLSA): The FLSA establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting employees in the private sector and in Federal, State, and local governments.

FLSA Determinations Cover Sheet and Determination Tests (HR36): The LDH Human Resources form that Human Resources uses to document FLSA determinations made by Human Resources.

Human Resources Director: The custodian of the official personnel file. It could refer to any Human Resources Director whether in a facility, region, program office, or the central human resources office.

LDH Human Resources Director: The director of the central human resources office for LDH, officially titled the director of the Division of Human Resources, Training and Staff Development (HRTSD) located in Baton Rouge.

Manager: An employee with responsibility for providing information regarding their subordinate employees' job duties to assist Human Resources in making decisions relating to the exempt/non-exempt status of those employees.

Non-exempt employees: Non-exempt employees are those employees who do not meet the exemption requirements outlined in the FLSA and, therefore, must be compensated (compensatory time or cash payment) at a rate of time-and-one-half for overtime hours actually worked in excess of 40 hours during any affected week.

V. POLICY PROVISIONS

- A. **Positions** that are hourly or WAE are automatically non-exempt, with the exception of medical doctors, dentists, lawyers, teachers, or certain computer employees (based on FLSA provisions and the position's Civil Service job title).

- B. Non-exempt employees who work overtime without prior approval will be compensated per FLSA and state regulations; however, the employee may be subject to disciplinary action, up to and including dismissal. Non-exempt employees SHALL NOT read work-related emails or texts outside of scheduled work hours or while on approved leave unless specifically directed to do so by their supervisor or higher. If action is required, including the action of reading work-related emails or texts, the employee shall report such action as time actually worked. If the employee receives work-related phone calls outside of scheduled work hours or while on approved leave, the time spent on the calls and any follow-up actions shall be reported as working time.
- C. The LDH Human Resources/Compensation Division maintains a list of Civil Service job titles and their corresponding FLSA designations based on the general duties typically assigned to each job title. In rare cases, program office management may be of the opinion that the duties of a particular position do not meet the designation that Human Resources has assigned to the job title. In these instances, the program office may request that Human Resources review the FLSA status of the position and confirm or change the designation as appropriate.
- D. If a manager, supervisor or employee feels that the current exemption status assigned to any position is incorrect they may request that Human Resources review the FLSA status of the position and confirm or change the designation as appropriate.

VI. RESPONSIBILITIES AND PROCEDURES

- A. Human Resources Responsibility to make FLSA Determinations
 - 1. FLSA Determination for individual positions
 - a. Human Resources may meet with the incumbent of the position being evaluated. The incumbent's supervisor and/or manager should be included in the meeting when possible. If the position is vacant, Human Resources may meet with the supervisor and/or manager.
 - b. The participants shall read and review the FLSA Cover Sheet and Determination Tests, HR36.
 - c. The participants shall then discuss the duties actually being performed or to be performed (if the position is vacant) by the incumbent in relation to the HR36.

- d. A determination shall be made. A joint determination is preferable. However, the ultimate responsibility for making the determination and justifying it rests with Human Resources.
 - e. The participants shall sign and date all forms used to document their participation in the meeting. If the position is vacant, Human Resources shall write "Vacant" on all forms in the space for the incumbent's name.
2. FLSA Determination for Positions Included on a Master Job Description (MJD)
- a. One set of FLSA determination forms, HR36, may be completed for all positions included on a master job description.
 - b. "Master Job Description" or "MJD" shall be written on all FLSA determination forms in place of the position number.
 - c. A separate sheet of paper must be attached to the FLSA Determination Cover Sheet giving the following information:
 - 1) position numbers that are included in the determination;
 - 2) office/facility/clinic and GFS Org # where each position is located; and
 - 3) current incumbent(s) name and Personnel #.
3. Position Description
- After the determination has been made, Human Resources, the manager and employee/supervisor, if participating in the determination, shall review the current position description. If there is a significant change in job duties of a continuing nature, an updated position description shall be submitted to the Human Resources Office within thirty (30) days of the date the determination was made.
4. FLSA Determination Cover Sheet
- Human Resources and the employee, if participating in the determination, shall complete and sign the FLSA Determination Cover Sheet, HR36. If the position is vacant, Human Resources shall write "Vacant" in the space for the incumbent's name.
5. Notification/Records
- a. Each employee shall be given a copy of all documents used, upon request.

- b. Each supervisor and time administrator shall be given a copy of the cover sheet for overtime coding purposes.
- c. The Human Resources Director or designee shall be given/sent the original documents and a copy of the position description reviewed.
- d. Human Resources shall set up a file for each position, and maintain a record of how each determination was made. A copy of all the documents and tools used shall be kept on file for a minimum of three (3) years after completion of the next determination for that position.

C. Human Resources Director's Responsibility

- 1. When documentation of a determination is received, the Human Resources Director shall ensure that the official job description on file in the Human Resources Office is pulled and that the date the determination was made (per the HR36) is stamped or written at the top of the agency's copy of the official job description, as well as one of the following:
 - a. "Exempt" or "Non-exempt" – if there was no significant change in the job duties;
 - b. "Needs Updating" – if there has been a significant change between the job description on file and the job duties being performed.
- 2. If the job description needs updating, the Human Resources Director or designee shall make a tickler and follow-up in writing within thirty (30) days to be sure an updated job description is submitted. A copy of the request may be sent to the Assistant Secretary to ensure an updated job description is submitted.
- 3. Input Determination in LaGov HCM
 - a. Access the organizational structure within the organization view.
 - b. Select the position for which you want to maintain an employee group and subgroup.
 - c. Select the info type, Employee Group/Subgroup.
 - d. Assign an employee subgroup.

NOTE: When an employee promotes, demotes, or laterally transfers, his/her exemption status may change.

- 4. Documentation of how each determination was made shall be attached to the official job description.

5. The Human Resources Director or designee shall investigate questionable determinations within his/her office/facility/clinics for potential problems.
6. The Human Resources Director or designee shall answer questions asked by administrators, division/bureau directors, department heads, and managers regarding FLSA determination. He/she:
 - a. researches the issues, utilizing his/her FLSA manual, updates, departmental policies, related memorandums, etc.; and,
 - b. requests the assistance of the LDH, Division of Human Resources, Training and Staff Development after all available avenues have been exhausted.

VII. DISCIPLINARY ACTIONS

Any employee who violates this policy may be subject to disciplinary action up to and including dismissal from employment.

VIII. REFERENCES

Fair Labor Standards Act, Part 541

https://www.dol.gov/whd/overtime/fs17g_salary.pdf

State Civil Service Rule 21.2

Human Resources, Training and Staff Development Office

IX. REVISION HISTORY

Date	Revision
June 17, 1999	Policy created
August 23, 2004	Policy revised
August 16, 2021	Housekeeping Change – Incorporates current procedures