

# Extension Council Update

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# Councils as Employers Updates



Fair Labor  
Standards Act –  
Salary  
Thresholds

Independent  
Contractors

Pregnant  
Workers  
Fairness Act

Employees in  
Volunteer Roles

# **Fair Labor Standards Act Salary Thresholds**

# Fair Labor Standards Act (FLSA)

Establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting employees.



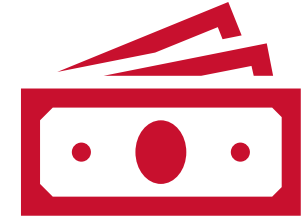
# What is FLSA?

- The Fair Labor Standards Act, 29 U.S.C. § 201, et seq., was adopted in 1938.
- The purpose was to eliminate conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers without substantially curtailing employment or earning power.

# What is FLSA?

- **Minimum wage:** \$7.25
- **FLSA Overtime:** Covered nonexempt employees must receive overtime pay **for hours worked over 40 per workweek** at a rate not less than one and one-half times the regular rate of pay.
- **Hours Worked:** The time during which an employees is **required** to be on the employer's premises, on duty, or at a prescribed workplace.
- **Recordkeeping:** Employers keep employee time and pay **records**.
- **Child Labor:** Provisions for minors.

# Salary ≠ Exempt

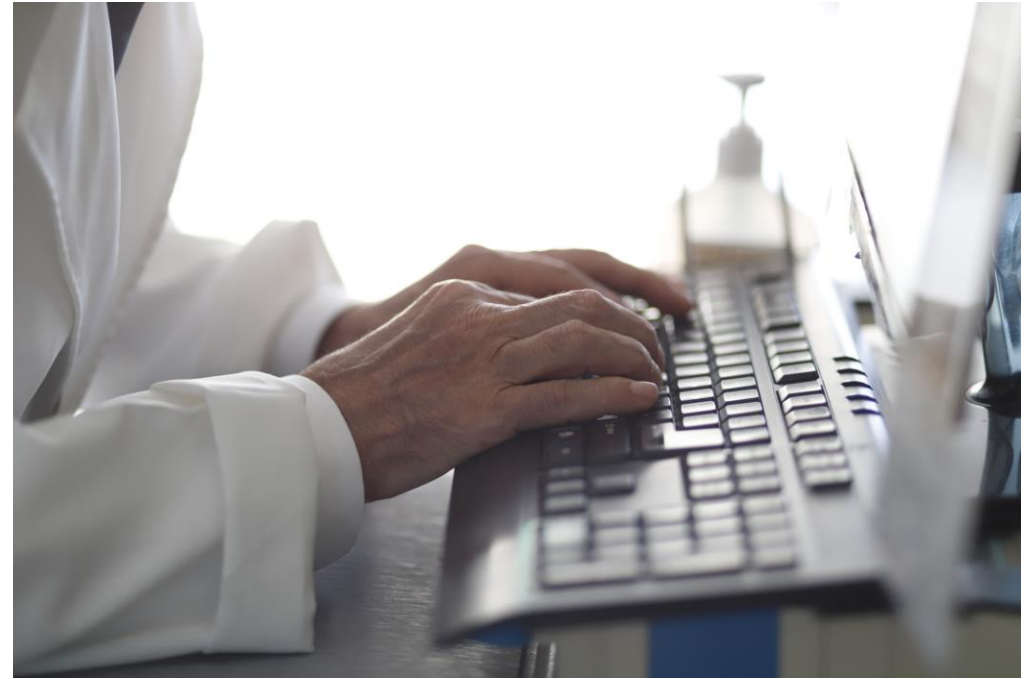


- **Salaried** employees work for a set paid amount for the year, divided by the number of pay periods.
- **Exempt** employees are not paid overtime (if they qualify for the exemption standard).

Employees can be classified as **salary exempt** or **salary non-exempt**.

# FLSA Exemptions

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



**<https://www.dol.gov/agencies/whd/fact-sheets/17a-overtime>**



# FLSA Exemptions – Primary Duties

## Executive Exemption - Primary Duties

- Managing the enterprise, department or subdivision of the enterprise
- Must supervise at least two or more other full-time employees
- Have the authority or recommendation to hire, fire, advance, promote

## Administrative Exemption - Primary Duties

- Perform office or non-manual work directly related to management or general business operations
- Exercise discretion and independent judgement with respect to matters of significance

## Professional Exemption - Primary Duties

- Requires advanced knowledge, predominantly intellectual in character, requires consistent exercise of discretion and judgement
- Advanced knowledge must be in a field of science or learning
- Gained knowledge through prolonged course of specialized intellectual instruction

# FLSA Exemptions

- A job title alone is insufficient to establish the exempt status of an employee.
- The exempt or nonexempt status of any employee must be determined based on whether the employee's **salary and duties** meet the requirements of the regulation.
  - Executive exemption AND salary threshold
  - Administrative exemption AND salary threshold
  - Professional exemption AND salary threshold

# Salary Thresholds

- **Current: \$35,568 per year**
- **July 2024: \$43,888 per year**
- **January 2025: \$58,656 per year**
- **Will automatically update every 3 years;**  
will continue to have fewer employees on salary as time goes on.
- **Applies equally to full-time and part-time employees.**



# Possible Ways to Manage

- Use TimeClock Plus to track hours for salaried, non-exempt staff to determine when overtime should be paid.

*-or-*

- Move salaried staff to hourly status.



# FLSA Salary Thresholds

Assess anticipated pay of all salaried/exempt employees for both July 2024 and January 2025.

Communicate new threshold requirements to affected salaried employees and expectations for overtime use.

Make changes to personnel policy once template changes are released.

Use TimeClock Plus to track employee hours.

# Independent Contractors

# Independent Contractors

- Effective March 11, 2024
- Revises U.S. Dept. of Labor's guidance on how to analyze who is an employee or independent contractor.
- Provides six factors that guide DOL's analysis of worker's relationship with an employer.



# Independent Contractor vs. Employee

## Employees

- Protected under the FLSA
- Receive a W-2
- Only pay employee portion of payroll taxes
- Can receive other benefits, if they are eligible by personnel policy

## Independent Contractors

- Not protected by FLSA
- Receive a 1099
- Pay all taxes on income
- Do not receive employee benefits



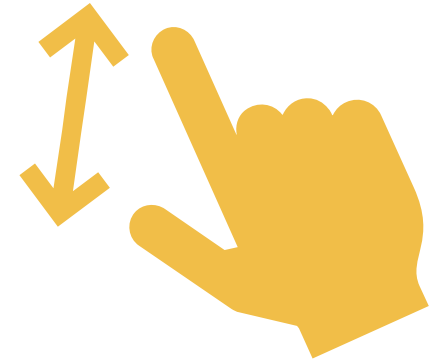
# Economic Reality Test Factors

- 1) Opportunity for profit or loss depending on managerial skills.
- 2) Investments by the worker and the employer.
- 3) Degree of permanence of the work relationship.
- 4) Nature of degree of control.
- 5) Extent to which the work performed is an integral part of the employer's business.
- 6) Skill and initiative.



<https://www.dol.gov/agencies/whd/fact-sheets/13-flsa-employment-relationship>

# Closer Look



## 3. the permanency of the work relationship;

- *Looks at the nature and length of work relationship*
- *Sporadic or project-based versus continuous*

**Independent Contractor** – Work that is sporadic or project-based with fixed ending date, where the worker may make a business decision to take on multiple different jobs.

**Employee** – Work that is continuous, does not have a fixed ending date, or may be the worker's only work relationship.

# Closer Look



## 5. the extent to which the work performed is an integral part of the employer's business

- *Looks at whether the work is critical, necessary, or central to the potential employer's principal business*

**Independent Contractor** – Where the work is performed by the worker is not critical, necessary, or central to the potential employer's principal business.

**Employee** – Does not depend on whether any individual worker in particular is an integral part of the business, but rather whether the work they perform is an integral part of the business.

# If You Need to Convert Positions

Assistance (job descriptions, posting, and promoting positions to qualified people) is available if your council would like to transition a position from independent contractor to employee.



- Regional Directors
- Meri Skala and Tiffany Magstadt, County Services (Accounting) Specialists

# Independent Contractors

Analyze your employee job descriptions, especially external bookkeeper. Convert independent contractors to employees, if needed.

There will be very few county employees that will qualify as an independent contractor.

# **Pregnant Workers Fairness Act (PWFA)**

# Pregnant Workers Fairness Act

- A federal law that requires an employer to provide a “reasonable accommodation” to a qualified employee’s known limitation related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the employer an “undue hardship”
- “Undue hardship” is defined as causing significant difficulty or expense.
- Applies to entities with 4 or more employees
- Final regulation goes into effect June 18, 2024



# Pregnancy in the Workplace



- 23% of moms have thought about leaving a job due to a lack of reasonable accommodation or fear of discrimination from an employer during pregnancy\*.
- 8 in 10 first-time pregnant women work until their final month of pregnancy\*\*.
- 72% of working women will become pregnant while employed\*\*\*.

Source: \*U.S. Congress PWFA 2021; \*\*Bipartisan Policy Center, February 11, 2022; \*\*\*U.S. Census Bureau



# Who does it protect?

- Provides reasonable accommodations for qualified employees who have know limitations which are physical or mental conditions related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions.
- Also includes menstruation, fertility treatments, and other interventions



# Sample Accommodations

- Schedule changes or time off to go to health care appointments.
- Extra bathroom breaks.
- A chair or stool to sit on while working.
- Ability to telework full or part-time.
- A private place to pump breast milk.
- Leave to recover from childbirth.
- Breaks to eat and drink.
- Light duty.

# Examples of what an employee may say:

- “I’m having trouble getting to work at my scheduled starting time because of morning sickness.”
- “I temporarily need a desk closer to the bathroom because of my pregnancy.”
- “I need time off from work to attend a medical appointment because of my pregnancy.”
- “I have trouble being in loud areas because of migraines caused by my pregnancy.”
- “I’ll need a golf cart at the fair because of my pregnancy.”

# Can you require documentation?

## Yes & No

- In many instances, a conversation with the employee may be sufficient and documentation is not needed.
- Employers should also keep in mind that documentation may be difficult to obtain from a health care team early in pregnancy.
- Can seek information from health care provider under limited circumstances: what changes are medically necessary; confirm the condition is related to, affected by, or arising out of pregnancy.

# Important things to remember:

- Workers do not need to use specific words to request an accommodation to begin the process. They do not need to refer specifically to PWFA to submit accommodation request.
- A worker may need different accommodations as the pregnancy progresses (pre-pregnancy, pregnancy, childbirth, recovery/post-pregnancy).

# Other applicable laws

- **Americans with Disabilities Act (ADA)**
  - protects from discrimination based on disability (pregnancy itself is not a disability under ADA)
- **Title VII** of the Civil Rights Act of 1964
  - protects from discrimination and requires employers to treat employees the same
- **Family and Medical Leave Act (FMLA)** – provides covered employees with unpaid, job-protected leave
- **PUMP Act** – broadens workplace protections for expressing breast milk at work (time and private place)

# Pregnant Workers Fairness Act

Incorporate new language into personnel policy once template changes are available. Check parental leave policy.

Make a plan to notify employees about their rights to workplace accommodation.

Train supervisors so they're prepared when they receive an accommodation request.

# Employees in Volunteer Roles



# Most Common



MASTER GARDENERS



4-H CYC

# Can an employee volunteer?

Yes. A council employee may volunteer their time if:

1. The volunteer services are not the same type of services the individual is employed to provide the council.
2. The council does not pressure or coerce the employee to volunteer.



# Check Your Personnel Policy

## Chapter 3: Conflict of Interest. Last paragraph:

### Staff as Volunteers

ISU Extension and Outreach \_\_\_\_\_ County employees may not volunteer to perform services for ISU Extension and Outreach \_\_\_\_\_ County that are identical or similar to their duties as an employee. It is the responsibility of the employee to notify ISU Extension and Outreach \_\_\_\_\_ County Personnel Committee if an employee wishes to volunteer in other capacities within Extension and Outreach. Prior approval from the personnel committee is required before an employee is allowed to volunteer in any capacity within Extension and Outreach.

# Employee Volunteer Scenario

The volunteer role must be **dissimilar** enough from their role as an employee.

## *Examples for discussion:*

1. Master Gardener Coordinator, Jane, is your employee. Jane is also a Master Gardener herself and requires volunteer hours to maintain her MG certification.
2. County Youth Coordinator, Tom, is your employee. Tom also is a 4-H Club Leader for his children.

# Employee Volunteer Scenario

The volunteer role must be **dissimilar** enough from their role as an employee.

*Example:*

Jane as **Employee**: directs and manages Master Gardener activities in X County.

Jane as **Volunteer**: is directed in tasks and duties at the MG event/activity she attends.



# Employee Volunteer Scenario

The volunteer role must be **dissimilar** enough from their role as an employee.

*Example:*

Jane as **Employee**: directs and manages Master Gardener activities in X County.

Jane as **Volunteer**: directed others in tasks and duties required at a MG event/activity.



# Employee Volunteer Scenario

The volunteer role must be **dissimilar** enough from their role as an employee.

*Example:*

Tom as **Employee**: provides guidance and manages for 4-H and youth program activities in X County.

Tom as **Volunteer**: is directed in tasks and duties in the 4-H club he leads for his children.



# Employee Volunteer Scenario

The volunteer role must be **dissimilar** enough from their role as an employee.

*Example:*

Tom as **Employee**: provides guidance and manages for 4-H and youth program activities in X County.

Department of Labor is unlikely to assess FLSA violations for public employee who is also parent of a child in that county that volunteers for activities where their child is participating.





# Employees in Volunteer Roles

Ensure personnel policy includes a stipulation that employees notify council if they wish to volunteer. Prior approval may be required in writing from the personnel committee.

Limit and document instances where hourly, non-exempt employees are volunteering for council-related project or events.

# What do councils do with this information?

# What do councils do?

Make changes to personnel policy once template changes are released (estimated by July 1).

Communicate with affected employees.

Think ahead and prepare for financial implications to budget.

# FLSA Salary Thresholds

Assess anticipated pay of all salaried/exempt employees for both July 2024 and January 2025.

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# Resources

- [Equal Employment Opportunity Commission \(EEOC\)](#)
- U.S. Department of Labor
  - [Salary Thresholds](#)
  - [Independent Contractor](#)
  - [Fact Sheets](#)
- Whitfield & Eddy Law
- [County Services](#) website
- [Iowa Extension Council Association](#) website