

Employee Policy

This section deals with suggestions related to salary and benefits and necessary reports which will need to be filed to local, state or federal agencies.

At Will Employment Statement

Wyoming recognizes at-will employment. That is, that an employee is hired at-will and that employment can be terminated at the will of either party. If employees are to be at-will employees, the employee policy and position descriptions should clearly state such.

Example

This is not a contract of employment. Any individual may voluntarily leave employment upon proper notice, and may be terminated by the employer at any time and for any reason. Any oral or written statements or promises to the contrary are hereby expressly disavowed.

Example

The employment relationship is terminable at the will of either the employee or the district, at any time, with or without cause, and with or without notice. No employee, officer, agent or other representative of the district has any authority to enter into any agreement for employment for any specific period of time or to make any agreement or representation, verbally or in writing, which alters, amends, or contradicts the foregoing provisions.

Exempt vs. Non-Exempt *(revised April 28, 2004)*

Some employees are exempt from the overtime pay provisions of the Fair Labor Standards Act (Fair Labor Standards Act). Exemptions are narrowly construed against the employer asserting them. It is not enough to simply pay an employee a salary and classify them as exempt to avoid paying overtime.

Section 13(a)(1) of the FLSA provides an exemption from both minimum wage and overtime pay for employees employed as bona fide executive, administrative, professional and outside sales employees. Section 13(a)(1) and Section 13(a)(17) also exempt certain computer employees. To qualify for exemption, employees generally must meet certain tests regarding their job duties and be paid on a salary basis at not less than \$455 per week. Job titles do not determine exempt status. In order for an exemption to apply, an employee's specific job duties and salary must meet all the requirements of the Department's regulations.

Executive Exemption

To qualify for the executive employee exemption, all of the following tests must be met:

- ☞ The employee must be compensated on a salary basis at a rate not less than \$455 per week;
- ☞ The employee's primary duty must be managing the enterprise, or managing a customarily recognized department or subdivision of the enterprise;
- ☞ The employee must customarily and regularly direct the work of at least two or more other full-time employees or their equivalent and

- ✍ The employee must have the authority to hire or fire other employees, or the employee's suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees must be given particular weight.

Administrative Exemption

To qualify for the administrative employee exemption, all of the following tests must be met:

- ✍ The employee must be compensated on a salary or fee basis at a rate not less than \$455 per week;
- ✍ The employee's primary duty must be the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and
- ✍ The employee's primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

Professional Exemption

To qualify for the **learned professional** employee exemption, all of the following tests must be met:

- ✍ The employee must be compensated on a salary or fee basis at a rate not less than \$455 per week;
- ✍ The employee's primary duty must be the performance of work requiring advanced knowledge, defined as work which is predominantly intellectual in character and which includes work requiring the consistent exercise of discretion and judgment;
- ✍ The advanced knowledge must be in a field of science or learning; and
- ✍ The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

Blue Collar Workers

The exemptions provided by FLSA Section 13(a)(1) apply only to "white collar" employees who meet the salary and duties tests set forth in the regulations. The exemptions do not apply to manual laborers or other "blue collar" workers who perform work involving repetitive operations with their hands, physical skill and energy. FLSA-covered non-management employees in production, maintenance, construction and similar occupations such as carpenters, construction workers and laborers are entitled to minimum wage and overtime pay under the FLSA and are not exempt under the Part 541 regulations, no matter how highly they are paid.

For additional information, visit the Department of Labor Wage Hour Division Fact Sheet #17a at http://www.dol.gov/esa/regs/compliance/whd/fairpay/fs17a_overview.htm, or by calling 1-866-4US-WAGE (1-866-487-9243).

Compensation Time vs. Cash Overtime Pay

Employees of state and local government can earn and accrue compensatory time off (comp time) in lieu of immediate cash payment for overtime. The Fair Labor Standards Act requires that comp time be earned at a rate not less than one and one-half hours for each hour worked overtime, as per 29 CFR 553.22.

An agreement or understanding between the employee and employer to use comp time in lieu of overtime payment in cash must be reached prior to the performance of work, and the employee's decision to accept comp time in lieu of cash overtime payments must be made freely without coercion or pressure. The agreement should be put in writing, and can become part of the position description. Such an agreement does not automatically extend to all employees, nor does the employer have to provide a similar agreement to all employees.

Records must be kept containing basic employee data (see 29 CFR 510.2) and must contain:

- ? Number of hours of comp time earned each work period
- ? Number of hours of comp time used each work period
- ? Number of hours of comp time compensated in each work period
- ? Copy of written agreement of compensation time in lieu of cash overtime pay

Salary and Compensation

Salaries should be addressed as per position description. Each individual should be fully knowledgeable as to what type, hourly or salaried, employee he/she is and when the payroll is made, such as the first and the fifteenth, weekly or monthly.

Each employee should be aware of normal work hours, such as 8 to 5, and designated times for coffee breaks and lunch breaks.

Benefits

The following are suggested details to be addressed to consider for employee benefits when writing office policy:

Annual Leave:

- ? Which employees will be entitled to sick leave, full-time salaried, full-time hourly, temporary, part-time, permanent.
- ? Length of employment prior to earning annual leave (vacation), such as six months or one year.
- ? Annual leave is accrued at what rate such as, 8 hours per month, and if this rate will increase after a certain length of employment and at what rate.
- ? Is there a limit on how much annual leave may be accrued.
- ? If paid leave plan, will accrued leave be eligible for payment in lieu of taking time off.
- ? If paid leave plan, will accrued leave be payable at time of termination, retirement or death.
- ? Length of time in which employee must receive approval for leave.
- ? Whether or not annual leave will be allowed immediately before or after holidays.

Sick Leave:

- ? Length of employment prior to earning sick leave, such as six months or one year.
- ? Sick leave is accrued at what rate such as 8 hours per month and if this rate will increase after a certain length of employment and at what rate.
- ? Is there a limit on how much sick leave may be accrued.
- ? If paid leave plan, will accrued leave be payable at time of termination, retirement or death.
- ? To whom to notify when sick leave is being taken.
- ? Number of days of sick leave taken which will require a physician's statement.
- ? Allowable reasons for taking sick leave.
- ? Personal illness (including maternity).
- ? Personal medical appointments.
- ? Care and attendance for members of immediate family.
- ? Medical appointments of immediate family.
- ? Exposure to contagious disease that would endanger co-workers (requires explanatory medical certificate from doctor).
- ? Death in family.
- ? Accident not occurring on the job.

Immediate family should be defined, such as: step-parent, step-child, step-grandparent, step-grandchild, spouse, child, parent, brother/sister, other as indicated.

If sick leave is allowed for personal illness, it must be allowed for maternity. It is not required that any more maternity leave be allowed than what the doctor says is medically necessary (up to the amount of sick leave earned).

Administrative Leave:

- ? Will holidays be paid?
- ? Whether holidays will be allowed for full-time, permanent, temporary, or part-time employees.
- ? Which legal Holidays are allowable as paid?
 - o New Year's Day
 - o Martin Luther King Day
 - o President's Day
 - o Memorial Day
 - o Independence Day
 - o Labor Day
 - o Veteran's Day
 - o Thanksgiving Day
 - o Christmas Day
 - o General Election Day
 - o Partial or full day preceding or following Thanksgiving, Christmas or New Year's.

If a legal holiday falls on Sunday, Monday is the holiday. If a legal holiday falls on a Saturday, Friday is the Holiday.

- ? Blood Donations (paid or unpaid for time off)
- ? On-the-Job-Injury – Whether or not charged leave for initial emergency treatment or exam. For subsequent absences, consult sick leave policy or worker's compensation policy.
- ? Hazardous Weather:
 - o If office is declared closed, or authorities publicly declare driving limited and employee is unable to report for duty, the employee is excused without charge to annual leave.
 - o If weather conditions are unusually severe, tardiness not in excess of (hours) will be excused.
 - o If employee does not report to duty during hazardous weather (except under the first rule), annual leave is to be charged unless it is determined that the employee made every reasonable effort to get to work but was unable to do so due to weather conditions. Then excused absence may be approved for up to (house) approved.
 - ✍ Funeral Leave (approval procedure)
 - ✍ Court Leave (approval procedure for witness or jury duty).

- ✍ Military Leave (must be offered as a benefit as prescribed by statute), i.e. whether leave will be paid or unpaid and any approval procedure
- ✍ Registration and Voting Leave (approval procedure)

Click here for more information on provisions regarding employee leave provided for under law under the [Family and Medical Leave Act](#).

Insurance

What types (life, accident, health and medical) which are provided for by the employer. This should include the employees eligible for such coverage, whom to contact and any other information on these benefits.

District employees and supervisors are eligible to receive dental insurance through the WACD Delta Dental Group plan. Contact WACD for current enrollment procedures, rates and benefits. Employees or supervisors can enroll as individuals or as families. The insurance does not currently cover orthodontic work.

Retirement

District employees qualify for the Wyoming State Retirement Plan, under Wyoming [§ 9-3-427](#). Information on the Wyoming Retirement System can be obtained by contacting the Director at (307) 777-7691 or visiting their website at <http://retirement.state.wy.us>.

Overtime

This should include rate of pay for overtime for all hours worked over a designated number in a week. It should also include whether or not comp time will or will not be taken in lieu of overtime pay. It should also include the approval procedures. Click here for more information on [compensation time vs. cash overtime pay](#).

Transportation

This should include whether or not the district will provide a vehicle for official business, or if the district will provide compensation for the use of a personal vehicle for district business.

Training and Tuition

This should include whether or not the district will reimburse an employee for any training costs, or tuition costs for continuing education and what the approval procedures will be.

Drug and Alcohol Policy

WACD recommends incorporating a Drug and Alcohol Policy into your employee policy. The [Drug Free Work Place Advisor](#), a tool of the U.S. Department of Labor, has tools for employers, including sections on policy development, supervisor training, employee development and employee assistance.

Many federal grants require a drug free workplace form be included in each employee's personnel record. Review any federal grant agreements the district holds to be sure of district compliance.

Sample Employee Policy Table of Contents

1. At Will Employment Statement
2. Salary and Compensation
 - a. Salary
 - b. Overtime payments and Compensatory Time for non-exempt employees
 - c. Compensation Upon Separation
 - d. Performance Appraisals
3. Hours of Work defined
4. Benefits
 - a. Leave benefits
 - b. Health and dental insurance
 - c. Retirement
 - d. Life Insurance
5. Leave Policy
6. Security
7. Drug and Alcohol Policy
8. Equal Employment Opportunity
9. Employee Privacy Expectations
10. Civic Rights
11. Personnel Records
12. Work Related Injuries