

State University of New York
FLSA Executive Exemption Checklist

Position/Title _____ Campus Title: _____
 Salary Level: _____ Department: _____
 Line #: _____ Employee: _____

Applicable to employees who have management as their primary duty; who direct the work of two or more full-time employees; who have the authority to hire and fire or make recommendations regarding decisions affecting the employment status of others; who regularly exercise a high degree of independent judgment in their work; who receive a salary which meets the requirements of the exemption.

Executive Exemption

To qualify for the executive employee exemption, all of the following tests must be met:	Yes	No
> The employee must be compensated on a <u>salary basis</u> (as defined in the regulations) at a rate not less than \$455 per week; (or \$910 biweekly)	<input type="checkbox"/>	<input type="checkbox"/>
> The employee's primary duty must be managing the enterprise, or managing a customarily recognized department or subdivision of the enterprise; <ul style="list-style-type: none"> ○ "Primary duty" means the principal, main, major or most important duty that the employee performs. Determination of an employee's primary duty must be based on all the facts in a particular case, with the major emphasis on the character of the employee's job as a whole. ○ Generally, "management" includes, but is not limited to, activities such as interviewing, selecting, and training of employees; setting and adjusting their rates of pay and hours of work; directing the work of employees; maintaining production or sales records for use in supervision or control; appraising employees' productivity and efficiency for the purpose of recommending promotions or other changes in status; handling employee complaints and grievances; disciplining employees; planning the work; determining the techniques to be used; apportioning the work among the employees; determining the type of materials, supplies, machinery, equipment or tools to be used or merchandise to be bought, stocked and sold; controlling the flow and distribution of materials or merchandise and supplies; providing for the safety and security of the employees or the property; planning and controlling the budget; and monitoring or implementing legal compliance measures. ○ The phrase "a customarily recognized department or subdivision" is intended to distinguish between a mere collection of employees assigned from time to time to a specific job or series of jobs and a unit with permanent status and function. 	<input type="checkbox"/>	<input type="checkbox"/>
> The employee must customarily and regularly direct the work of at least two or more other full-time employees or their equivalent; <ul style="list-style-type: none"> ○ The phrase "customarily and regularly" means greater than occasional but less than constant; it includes work normally done every workweek, but does not include isolated or one-time tasks. ○ The phrase "two or more other employees" means two full-time employees or their equivalent. For example, one full-time and two half-time employees are equivalent to two full-time employees. The supervision can be distributed among two, three or more employees, but each such employee must customarily and regularly direct the work of two or more other full-time employees or the equivalent. For example, a department with five full-time nonexempt workers may have up to two exempt supervisors if each supervisor directs the work of two of those workers. 	<input type="checkbox"/>	<input type="checkbox"/>

To qualify for the executive employee exemption, all of the following tests must be met:	Yes	No
<p>✓ 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 <i>particular weight</i>.</p> <p>○ Factors to be considered in determining whether an employee's recommendations as to hiring, firing, advancement, promotion or any other change of status are given "<i>particular weight</i>" include, but are not limited to, whether it is part of the employee's job duties to make such recommendations, and the frequency with which such recommendations are made, requested, and relied upon. Generally, an executive's recommendations must pertain to employees whom the executive customarily and regularly directs. It does not include occasional suggestions. An employee's recommendations may still be deemed to have "<i>particular weight</i>" even if a higher level manager's recommendation has more importance and even if the employee does not have authority to make the ultimate decision as to the employee's change in status.</p>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Has 'Yes' been checked for each criteria above? If yes, the position is exempt. If no, the position is non-exempt under the executive exemption and therefore covered by the FLSA.</p>	<input type="checkbox"/>	<input type="checkbox"/>

Based on these guidelines, this position is declared: Exempt Non-exempt

Notes: _____

Reviewer

Date