



Unit 21 Working Hours and Professional Responsibility

19.19.21 Work Week Group E - Policy

19.19.21(a) Guidelines for Applying Work Week Group E Policy

21.16.21 Professional Responsibility

Agenda

- ▶ Review the FLSA
- ▶ Review Contract Sections (Unit 21):
 - ❑ 19.19.21: WWG E Policy
 - ❑ 19.19.21a: Guidelines for Applying Work Week Group E Policy
 - ❑ 21.16.21 Professional Responsibility





The FLSA: Federal Labor Law and the Meaning of Exempt Status

A little background: What is the FLSA?

The Fair Labor Standards Act (FLSA) is a federal law enacted in 1938 to protect the rights of full-time and part-time workers.

The FLSA established a minimum wage, the 40-hour work week, and overtime pay for covered employees.



What it means to be FLSA Exempt

Certain employees are classified as **exempt** from provisions of the FLSA (such as payment of overtime).

Along with members of several other business units, **Unit 21 employees are FLSA exempt.**

Their positions are salary-based and they are not entitled to overtime.



Advantages to Exempt Status

Unit 21 employees qualify for exempt status under what is termed the **professional exemption**, intended for skilled professionals with a high degree of expertise and applied skills in their area of knowledge.

As such, they are also afforded **professional** considerations, such as:

- ▶ Ability to set hours when and location where work is performed
- ▶ Evaluation of performance on the basis of work product
- ▶ May receive compensatory time off
- ▶ Not charged for absences less than a full day
- ▶ Are accountable for their work product and for meeting set objectives, and organize, prioritize, and engage in tasks accordingly

Advantages of Exempt Status to the Organization

- ▶ **High value, highly skilled, self-motivated employees**
- ▶ **Front line expertise and ability to effectively respond, inform, provide technical assistance, and problem-solve**
- ▶ **Attracts highly sought after expertise from the field to state service**



“ Human beings have an innate inner drive to be autonomous, self-determined, and connected to one another. And when that drive is liberated, people achieve more and live richer lives. ”

Daniel Pink





Contract Section 19.19.21: WWG E Policy

From 19.19.21: Work Week Group E - Policy

- State employees who are **exempt** from the FLSA are **not hourly** workers.
- Exempt employees are accountable for their work product and for meeting the objectives of the agency for which they work.



5 Elements of State Policy Regarding All FLSA Exempt Employees (19.19.21)

- **Management determines, consistent with current MOU's, the products, services, and standards FLSA-exempt employees must meet**
- **The salary paid to FLSA-exempt employees is full compensation for all hours worked**
- **FLSA-exempt employees are not authorized to receive any form of overtime compensation**
- **FLSA-exempt employees are expected to work within reason as many hours as necessary to fulfill their responsibilities.**
- **FLSA exempt employees are to be given discretion in establishing their work hours.**

Checklist of Rights for Unit 21 FLSA Exempt Employees

- I set my own work schedule and am not required to submit a schedule of fixed hours
- My supervisor does not monitor my hours/seat time, nor am I required to report on my hours/seat time
- I can choose the location from which I work
- My performance is evaluated based on my work product, not on the hours I work
- Sometimes I put in extra time. But the number of hours I must work to accomplish assigned tasks is not continually and unremittingly excessive
- When I do put in extra hours, I am offered comp time



Contract Section 19.19.21a: Guidance for Administrators

19.19.21(a): Guidelines for Applying Work Week Group E Policy (Unit 21)

Communication

Barely covered under 19.19.21. States that necessary communication between employee and supervisor should:

- ▶ Be two-way
- ▶ Focus on the work at hand
- ▶ Cover both specific projects/deadlines and ongoing functions
- ▶ Allow the employee to determine how and when to do the work

Note: Effective communication will also ensure that employee allows for all requisite activities



19.19.21(a): Guidelines for Applying Work Week Group E Policy (Unit 21)

Work Schedule

States that:

- ▶ Exempt employees are not required to work a fixed schedule
- ▶ Counting hours is antithetical to the WWG E concept
- ▶ Fixed work schedules that are not based on actual operational need are not appropriate



19.19.21(a): Guidelines for Applying Work Week Group E Policy (Unit 21) Employee Evaluation

The focus of an exempt employee's performance review should be:

- ▶ the quality of work performed
- ▶ the work product itself
- ▶ the fulfillment of professional duties





Contract Section 21.16.21: Professional Responsibility (Unit 21)

Three Paragraphs

It is the State's policy to allow Unit 21 employees the exercise of professional judgment in the employee's work including work methods, objectives, and hours.

Unit 21 employees shall exercise the employee's professional judgment in the employee's work, including scheduling of work hours and locations consistent with the fulfillment of professional responsibilities.

Both parties recognize that ultimate responsibility rests with management.

Checklist of Responsibilities for Unit 21 FLSA Exempt Employees

- We communicate often enough that my supervisor is well informed about the status of my projects and responsibilities and that I am made aware of any changes to my work
- I schedule my work hours, locations, and priorities consistent with the fulfillment of my professional responsibilities
- I produce timely, high quality work and collaborate and consult with my peers when needed
- I ask for what I need to complete my work when necessary.
- I understand both my rights and responsibilities as an exempt employee according to the terms of my contract



Problem Phrases in Contract Language

Subject to Interpretation

- ▶ ‘Employees are expected to work as many hours as necessary’
- ▶ ‘Keep management apprised of the employee’s schedule and whereabouts’
- ▶ ‘Actual operational needs’



Discussion: Intentionally or Unintentionally in Conflict with the MOU



Think about the ways these phrases and others like them might be used to weaken or get around the provisions of your contract. How might you respond to such a situation?

Please share your questions/comments

- ▶ What did you learn?
- ▶ What can you use?
- ▶ What more do you want to know?

