

# Exempt or Non-Exempt:

## What's the difference?

**Questions and Answers about  
Classification of Positions at USC**



The work done by each member of our staff is important and has contributed to the university's rapid progress toward becoming one of the most influential and productive research universities in the world. The quality and effectiveness of services provided by each staff member creates a foundation for reaching our goals. It doesn't matter what position you are in, which department you work in, what grade level your position is, or whether you're exempt or non-exempt—your commitment and the quality of the work you do helps shape USC's future.

The following questions and answers were developed to help supervisors and their employees understand why jobs are classified as non-exempt or exempt. If you have additional questions about job classifications or the development or selection of job descriptions, staff in the Compensation office are available to answer them. Call (213) 437-1815 on the University Park campus or (323) 442-1010 on the Health Sciences campus. Or, you can e-mail your questions to [compensation@usc.edu](mailto:compensation@usc.edu).

## So what are the differences between exempt and non-exempt jobs?

Although the federal and state regulatory guidelines concerning job classification are complex, here are some basic differences in how wage and hour law applies to non-exempt and exempt employees.

### **Employees in non-exempt jobs:**

- Are paid for all hours worked, including additional pay for additional hours worked
- Must be paid at overtime rates if they work beyond a certain number of hours in a day or week.
- Are paid more frequently
- Must take rest breaks and meal breaks

### **Employees in exempt jobs:**

- Are paid to get the job done regardless of hours worked
- Are paid an established salary
- Are not eligible for overtime pay
- Are not required to take meal breaks or rest breaks

## Why is a job non-exempt?

It's the law. Federal and state governments establish regulatory guidelines for job classification in order to provide protections for employees in certain types of jobs. The university must comply with these guidelines. All staff positions are classified as non-exempt unless the duties performed meet criteria established under federal and state regulations which would allow the positions to be classified as exempt. At USC, only the Compensation Office in Personnel Services has the authority to determine if a staff position qualifies to be classified as exempt and if the employee in that position is performing the duties which are required to maintain an exempt status.

## Why is a job exempt?

Employees must meet certain requirements under federal and state law to be classified as exempt. In order to be exempt, the job must require exercising discretion and making independent judgments that have significant impact on business operations. The employee is not merely applying guidelines to decision-making; but is free to act outside of those guidelines. The requirement to make these independent judgments should be one of the employee's most significant job duties, not something he or she occasionally does. All employees are expected to behave in a "professional" manner, but the work they perform does not necessarily qualify them to be classified as exempt. Many highly skilled, very responsible positions are classified as non-exempt. See examples of non-exempt position decision-making and duties on page 4.

### The work my employee does is really important! The department couldn't function without her. Why doesn't that make her exempt?

All of our employees do important work. The value of that work has no bearing on the legal definitions which allow certain positions to be classified as exempt. For example, the work of pharmacists and nurses is critical to the operation of clinics and hospitals, but both jobs are non-exempt.

### I count on this employee to make important decisions! Why doesn't that make his job exempt?

How important the decision is, how much the supervisor relies on that employee to make the decision, or how much the supervisor, department or USC values the decision made by the employee are not part of the governmental criteria which would allow the position to have exempt status. Decisions need to be of a very particular type, such as the authority to hire, fire, administer discipline, conduct performance reviews and recommend merit increases.

### I want to reward an employee by making his job exempt. He wants to be exempt. It would be a great reward. Why can't I do that?

By law an employee cannot waive his or her right to be non-exempt if the work does not meet the requirements for exempt status. An employee's request or an agreement between an employee and the supervisor for exempt status cannot override or nullify the legally required classification.

### What if an employee is doing both non-exempt and exempt work?

**The rule here is simple:** The position must require spending at least 51% of the time in a week actually performing bona fide exempt work or the position must be classified as non-exempt. For example, if the job requires the employee to spend 40% of the time supervising others and 60% doing the same work as non-exempt subordinates, the job is non-exempt. If the position requires performing a variety of tasks and the time spent on exempt and non-exempt duties varies widely, the decision will always be in favor of making the position non-exempt.



## How can I tell the difference between exempt and non-exempt work?

Here are some “rules of thumb” that may help.

### **Does the job require a “rule-follower” or a “rule-maker”?**

If the employee usually follows procedures and policies instead of having the authority to create new rules and policies or to make exceptions to policy, the job is probably non-exempt.

### **Does the job require hands-on work most of the time?**

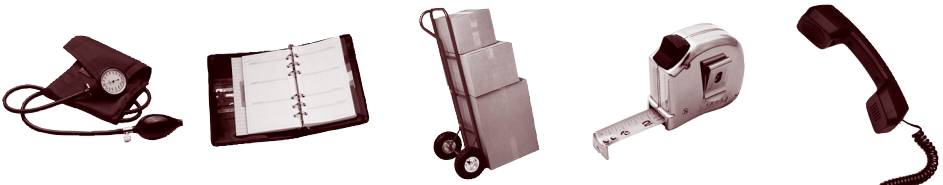
If the person spends most of the time operating equipment of any kind (including computers) instead of spending most of the time planning, directing or being genuinely innovative (and use of equipment is secondary to his or her job) the position is likely non-exempt.

### **Is the work complex technical work?**

If the job requires spending most of the time applying craft and technical skills, the job is probably non-exempt, even if those skills are very complex or highly technical. Some examples of highly technical non-exempt positions are videotape editors, computer programmers, accountants, lab assistants, graphic designers, and system analysts. There are special requirements for classifying computer positions as exempt.

### **Does the position require spending most of the time supervising others?**

If the job requires the supervisor to spend 51% or more time doing the same work as non-exempt subordinates, the job is probably non-exempt. The number of employees supervised does not automatically qualify a position for exempt status—it depends on the duties and responsibilities of the job.



## Examples: Non-Exempt Job Responsibilities

The following are a few examples of responsibilities that are appropriately assigned to non-exempt positions, which some people mistakenly believe might qualify the position to be exempt.

- Advising/counseling students within established guidelines regarding financial aid, admission and other academic issues
- Implementing, monitoring, and giving updates on projects
- Writing correspondence, news articles, speeches, reports or proposals
- Performing experiments and recording results according to established protocols
- Designing Web pages to meet user needs
- Evaluating the need for equipment upgrades and selecting new equipment
- Programming within existing programs (e.g., VBA, Flash, ASP, .Net, etc.)
- Coordinating or managing office operations without significant supervisory responsibilities
- Tracking, analyzing, auditing and reconciling financial performance within established parameters
- Designing publications, both printed and online, to specifications
- Performing administrative and clerical duties, such as bookkeeping, billing, filing, typing, and operating business machines, sorting and distributing mail, making travel arrangements
- Coordinating events
- Selecting vendors and monitoring their performance and products
- Advising employees regarding compliance with policies and procedures



- Setting up, assembling, and installing equipment and troubleshooting issues
- Determining if a research subject is eligible for a program, experiment etc.
- Making admission decisions for undergraduate and/or graduate programs in accordance with admission guidelines
- Administering an assigned budget and providing input for future budget requests
- Installing upgrades, repairing, and maintaining computer systems and work stations

Staff in the Compensation office are available to answer any questions you may have about what sorts of decision-making or duties are most appropriately assigned to which jobs and how those responsibilities affect classification. Remember, it is important that supervisors regularly review their employees' job descriptions to make certain they continue to accurately reflect the work being performed.



## For More Information

[policies.usc.edu](http://policies.usc.edu)

### Personnel Services

Questions about non-exempt and exempt position classification should be directed to Compensation staff in Personnel Services on the University Park campus at (213) 437-1815 or on the Health Sciences campus at (323) 442-1010. Or, you can e-mail questions to [compensation@usc.edu](mailto:compensation@usc.edu).