



Navigating Payroll Laws

Wages and Recordkeeping Requirements

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Introduction



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Tell Us About You



- What challenges does your school district face when administering payroll?
 - Applying increasing minimum wage
 - Tracking employee hours and overtime
 - Deducting pay for employee expenses or overpayments
 - Calculating employee payouts upon termination or separation

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Agenda



1. Fair Labor Standards Act
2. Illinois Wage Payment and Collection Act
3. Illinois Minimum Wage Law

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Fair Labor Standards Act



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FLSA Overview

- Minimum wage and overtime pay.
- Child labor restrictions.
- Employer recordkeeping requirements.
- Does not apply to bona fide volunteers, independent contractors, and elected officials.



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FLSA Exempt Employees

- Certain employees who are paid on a salary basis are exempt from FLSA wage and overtime requirements.
- To properly classify an employee as exempt, an employer must ensure the employee satisfies both:
 - (1) “Salary basis” test (\$684 per week or \$35,568 annually); and
 - (2) Job duties test.
- The employer has the burden to establish that the employee meets each element of each exemption test.

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FLSA Exempt Employees

- FLSA exemptions include:
 - Executive Employees
 - Administrative Employees
 - Learned Professional Employees
 - Computer Employees
 - Highly Compensated Employees



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FLSA Exempt Employees



- Which positions are most at risk of misclassification?
 - Executive Assistants
 - Academic Counselors
 - IT Employees
 - Extracurricular Employees
 - Substitute Teachers

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Executive Exemption

1. Primary duty consists of management of the enterprise or a department or subdivision;
2. Customarily and regularly directs the work of two or more full-time employees; and
3. Has the authority to hire or fire employees, or recommendations carry significant weight if unauthorized to make final decision.

Concurrent performance of unrelated work does not disqualify an employee from the exemption; determined on a case-by-case basis.

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Administrative Exemption

- Primary duty is performance of office or non-manual work directly related to management or general business operations.
 - Ex. tax, finance, accounting, marketing, research, human resources, legal.
- Must include the exercise of discretion and independent judgment with “matters of significance.”
 - Evaluate and compare possible courses of action and then make a decision or recommendation after considering the various possibilities.

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Administrative Exemption

- Ex. Superintendent, Assistant Superintendent, Principal, department heads, academic counselors.
- Ex. Executive/Administrative assistant to a senior executive if, without specific instructions or proscribed procedures, has been delegated authority regarding matters of significance.

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Learned Professional Exemption

- Primary duty is to perform work requiring advanced knowledge
- In a field of science or learning
- Customarily acquired by a prolonged course of specialized intellectual instruction
- Advanced knowledge is obtained by completing an academic course of study resulting in four-year college degree or certification

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Learned Professional Exemption

- Ex. Teachers (and need not be certified or meet minimum salary requirement).
- Ex. Substitute teachers if primary duty is teaching and imparting knowledge in educational institution.

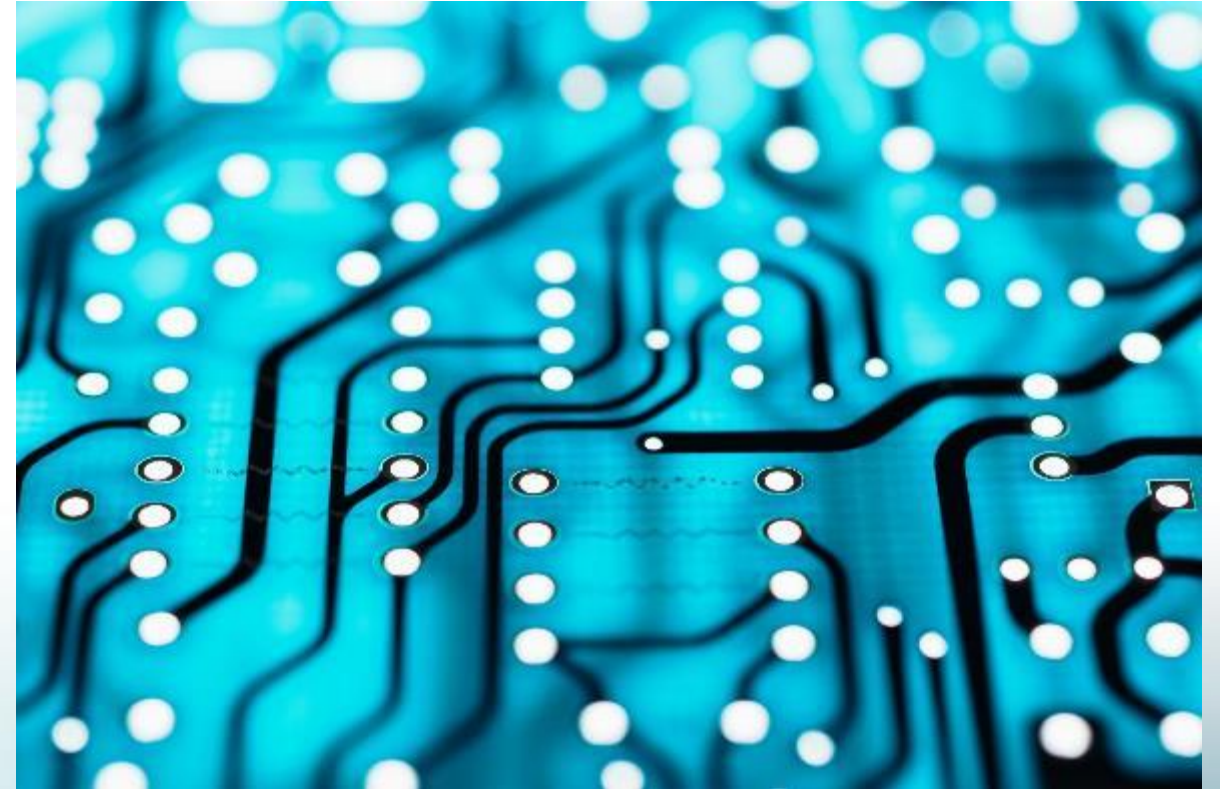
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Computer Employee Exemption

- Primarily engaged in computer systems analysis, design, development or modification or computer systems or programs, or a combination of similarly skilled duties.
- Not merely specialized knowledge of computers and software, or mere manufacture or repair.
- Ex. IT staff, depending on daily duties.



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Highly Compensated Employee Exemption

- Total annual compensation of at least \$107,432.
- Customarily and regularly performs any one or more of the exempt duties of executive, administrative or professional employee.



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Illinois Wage Payment and Collection Act



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IWPCA Overview

- Employers must notify employees at the time of hiring of the rate of pay and the time and place of payment.
- Payment of all wages earned at least semi-monthly, no later than 13 days after the end of the pay period in which wages were earned.
 - *Exception:* Collective Bargaining Agreements.
- Deductions from wages must comply with specific rules.
- Payment of final compensation of separated employees in full at the time of separation or no later than the next regularly scheduled payday.
- Payment of earned, unused vacation time to employees at separation as part of final compensation.

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Illinois Minimum Wage Law



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IMWL Overview

- Effective January 1, 2024, Illinois minimum wage for employees 18 or older increased to \$14/hour.
- The minimum wage will increase an additional \$1/hour to reach \$15/hour on January 1, 2025.
- Employees under 18 who have worked more than 650 hours for the employer during any calendar year may not be paid less than minimum wage for employees 18 or older. If they work less than 650 hours, they will earn \$12.00/hour.

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Overtime Pay



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Overtime Pay

- The FLSA and the IMWL require overtime pay at not less than time and one-half the regular rate of pay for all hours worked over 40 hours in a workweek.
- An employee's workweek is a fixed and regularly recurring seven consecutive 24-hour periods.
- Once the beginning time of a workweek is established, it remains fixed regardless of schedule of hours worked by the employee.
- Cannot average hours over two workweeks even if paid over two workweeks.

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Overtime Pay

- “Compensable time” is the time an employee is required to be on duty, or on the employer's premises, or at other places of work, and additional time required or permitted to work.
- Meal periods, travel time, and time spent away from the employer's premises are compensable when the time is spent predominantly for the benefit of the employer.

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Overtime Pay

- The IMWL does not require an employee be paid overtime compensation for hours in excess of eight per day, or for work on Saturdays, Sundays, holidays, or regular days of rest, unless hours worked exceed forty per week.
- The IMWL does not require that holiday, vacation, sick pay, or other similar causes be included in the regular rate of the employee.
- Hours that are paid for, but not worked, will not increase the regular rate.

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Vacation Time



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Vacation Time

- Policies, contracts, oral promises, handbooks, and patterns of practice may create a duty to pay the monetary equivalent of earned vacation.
- Employers must maintain records of the number of vacation days earned and the dates on which vacation days were taken and paid.



Vacation Time

- Vacation earned by length of service is applied pro rata.
- “Use it or lose it” policies must include notice to the employee and a reasonable opportunity to take the vacation.
- A contract or policy may not require employees forfeit earned vacation at separation.

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Wage Deductions and Overpayments



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Wage Deductions

- Wage deductions are prohibited unless:
 - Required by law;
 - To the benefit of the employee;
 - In response to a valid wage assignment or wage deduction order; or
 - Made with the express written consent of the employee, given freely at the time the deduction is made.

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Wage Deductions: Wage Claims

- Employers can lose FLSA exemptions if it is established that the employer has an actual practice of making improper deductions from salaries or did not intend to pay employees on a salary basis.
 - Example: Improper deductions from a salaried employee's predetermined pay, such as docking for absences.
- If lost, the employer will become liable for all minimum wage or overtime violations that may have occurred during a specified time period.
- Improper deductions that are either isolated or inadvertent will not result in loss of an exemption for any employees if the employer reimburses the employees for such improper deductions.

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Overpayments

- When an employee agrees an overpayment has been made, the entire sum may be deducted from the employee's first regular payday after the overpayment occurred.
- If the overpayment is not discovered until one or more paydays have passed, the employee must agree to a repayment schedule.
- The repayment schedule may deduct no more than 15% of the employee's gross wages or final compensation per paycheck.



IDOL Wage Deduction Claims

- When an employee does not agree an overpayment has been made, no deduction may be made unless the employer complies with IWPCA notice requirements to the IDOL, and the employee will have an opportunity to respond.
- IDOL may permit the deduction if the employer shows:
 - The employee is indebted to the employer in an amount equal to or greater than the amount sought to be withheld; and
 - It would be inequitable to require the employer to make payment to the employee prior to the employee satisfying his or her obligation to the employer.

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Recordkeeping



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Non-Exempt Recordkeeping: Retain for 3 Years

- Employers must track hours worked by all employees for a period no less than 3 years.
- Records must show:
 - Name and address;
 - Date of Birth, if under age 19;
 - Sex and occupation;
 - Time and day of week on which employee's workweek begins;
 - Regular hourly rate of pay for any workweek in which overtime compensation is due, the basis for regular hourly rate, and the amount and nature of each payment which is excluded from the regular rate (ex. vacation, holiday, illness)

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Non-Exempt Recordkeeping: Retain for 3 Years

Records must show (continued):

- Hours worked each workday and total hours worked each workweek;
- Employee's rate of pay;
- Total premium pay for overtime hours;
- Total additions to, or deductions from, wages paid each pay period;
- Total wages paid each pay period; and
- Date of payment and pay period covered by payment.

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Exempt Recordkeeping

- Virtually identical requirements for exempt employees.
- Employers must also maintain records reflecting the basis on which exempt employees are paid (i.e. total compensation, including fringe benefits).
- Exempt employees typically do not earn overtime, so these records need not be maintained.
- Recommendation: Districts should maintain some record of actual hours worked by exempt employees in case of disputes as to exempt status and possibility of owed overtime.



Recordkeeping: Wage Claims

- In the absence of employer records, a claimant may not be denied recovery of wages or final compensation on the basis that the employee is unable to prove the precise extent of uncompensated work or final compensation.
- An employee need only produce sufficient evidence to demonstrate the amount and extent of work or time earned as a just and reasonable inference.
- Misclassified employees may be entitled to unpaid overtime for up to three years. Misclassification may result in employer liability for back taxes, penalties, interest, and attorneys' fees.

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Questions and Answers

We thank you for your time!

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