

LEGAL UPDATE

DOL Clarifies Learned Professional Exemption



On Jan. 5, 2026, the U.S. Department of Labor (DOL) issued Opinion Letter [FLSA2026-1](#), responding to an employee's question about being reclassified from an exempt employee to a nonexempt employee while believing that they continue to satisfy the education and job duties criteria of an exempt learned professional under Section 13(a)(1) of the Fair Labor Standards Act (FLSA). The question concerns an individual employed as a licensed clinical social worker for a health care organization.

Background

The FLSA generally requires employers to pay employees at least the federal minimum wage for every hour worked and 1.5 times their regular pay rate for each hour worked over 40 in a workweek. 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.

There are two general types of exempt professional employees: learned professionals and creative professionals. To qualify for the learned professional employee exemption, the employer must generally ensure all the following requirements are met:

- The employee must be compensated on a salary or fee basis at a rate not less than the standard salary level required by the FLSA;
- The employee's primary duty must be the performance of work requiring advanced knowledge (defined as work which is predominantly intellectual in character and requiring the consistent exercise of discretion and judgment);
- The advanced knowledge must be in a field of science and learning; and
- The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

Key Highlights

The employee at issue was reclassified from an exempt to a nonexempt employee after their supervisory role was discontinued as part of an internal restructuring. The DOL stated that the discontinuation of supervisory responsibilities would not preclude the employee's classification as an exempt learned professional. However, the change from the employee being paid on a salary basis to being paid on an hourly basis would likely defeat the exemption. Moreover, the DOL advised that even if the employee met the tests for the learned professional exemption, the employer may still choose to classify the employee as nonexempt. The DOL noted that the employee did not provide sufficient compensation information to determine whether they met the compensation requirements for the learned professional exemption after their compensation was changed to an hourly rate.

Employer Takeaway

The FLSA prohibits employers from misclassifying nonexempt employees as exempt. Employers have the discretion to classify employees as nonexempt as long as they pay at least the federal minimum wage for all hours worked and the overtime premium for work in excess of 40 hours in a workweek.