Most Common Exempt Criteria

- Payment method
- Payment amount - changing
- Primary duty
Executive Exemption Duties Test

• Manages the enterprise or a customarily recognized department or subdivision

• Customarily and regularly directs the work of at least two FTE employees
  – Has the authority to hire, fire, etc. or recommendations are given particular weight

• If concurrent work, who decides?

Administrative Exemption Duties Test

• Performs office or non-manual work directly related to the management or business operations of the employer or the employer’s customers

• Exercises discretion and independent judgment regarding matters of significance – has authority – makes decisions
Learned Professional Duties Test

• Performs work requiring advanced knowledge
  – Field of science or learning
  – Customarily acquired by a prolonged course of specialized instruction

• Performs work that is intellectual in character and requires the consistent exercise of discretion and judgment

Creative Professional Duties Test

• Performs work requiring invention, imagination, originality, and talent

• The work is in a recognized field of artistic or creative endeavor
Highly Skilled Computer Professional Duties Test

• Can be paid hourly if at least $27.63

• Must be a computer systems analyst, computer programmer, software engineer, or other similarly skilled employee in the computer field

• Does not just manufacture or repair computer hardware or related equipment or rely on computers to perform work; not help desk

Common Questions Related to Nonexempt Employees

• What is Work Time?
  – Time Reporting

• Can our organization pay compensatory time instead of overtime payments
  – Only public organizations can do this
Online Resource

• FLSA Fact Sheets Topical Index: Search by Exempt Category
  – https://www.dol.gov/whd/fact-sheets-index.htm