

Salary For Hourly (non-exempt) Workers

A salary for a non-exempt worker is a fixed sum of money paid periodically for work not to exceed 40 hours during the county's established work week. The hourly rate for that period, when calculated using all hours actually worked during the period, includes partial work weeks, (like at the end or beginning of a month or year where the weeks don't line up) and must be at or above the state or federal hourly rate, whichever is higher.

Any time worked over 40 hours for these positions under the Fair Labor Standards Act (FLSA), must be compensated by time and one half, either overtime accrual which is always payable at termination if not used or if the accumulation exceeds 240 total hours (or 480 hours if a law enforcement partial exemption position), or in cash equivalents.

Under this category, if an employee works less than forty hours a week, since they are hourly, they can be required to take time from paid leave accruals or take time as "unpaid" if policies are in writing.

A county employee may also, under a written overtime policy, be given overtime compensation in paid time off at the time and one-half rate. Being paid a "salary" is not the same thing as being exempt; sometimes you get a salary based on a 40 hour week assumption and if that cap is exceeded, the employee gets time and one-half.

Salary For Exempt Workers

A salary for a position which qualifies for overtime exemption under the FLSA, to be determined solely by the BOCC, is a fixed sum of money paid for each week without regard to hours worked. An employer

may require an exempt worker to work more or less hours than 40 hours but may only deduct hours from pay under very limited circumstances.

They may require the use of paid leave accruals under a written policy and, after those are gone, may deduct partial weeks or days only under the statute. The general rule for exempt employees is that they get paid for the whole week in which they work any hours; this rule does NOT apply to non-exempt (hourly) workers.

What This Means For Counties

Counties should refer to employees or positions as "hourly" or "exempt" instead of salaried. Since many counties have "salaried" hourly positions, it is misleading and confusing to equate salaries with exempt status. Make sure your employees understand their obligations regarding the number of hours they are expected to work, and what they should put on their time reports or leave slips when they don't work a full 40 hours a week.

Regularly review time records and get back to employees who don't seem to understand the reporting and pay rules. Make sure your payroll staff are fully versed in the county's record keeping and pay obligations so they can inform elected officials of apparent problems.

For more information, contact CTSI at 303-861-0507.