



Safety & Industrial Hygiene Classification Study Update

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History 2024-2025

- In 2024, the Office of Human Resources (OHR) received position audits from an agency to review job duties of six positions responsible for workplace safety.
- Employees' position description questionnaires (PDQs) reflected duties inconsistent with exempt job requirements as defined by the Department of Labor.
- OHR expanded its review of work performed by employees in other agencies; employees' PDQ's were review by the City Attorney's Office (CAO) which confirmed initial findings.
- 29 employees in the affected classifications across 5 agencies.

Current Safety & Industrial Hygiene Series

Safety & Industrial Hygiene (SIH) Professional I – Non-Exempt



Safety & Industrial Hygiene (SIH) Professional II – ***Exempt***



Safety & Industrial Hygiene (SIH) Administrator – ***Exempt***

Safety & Industrial Hygiene Supervisor – Exempt

Safety Manager - Exempt

May 2025 Original Recommendations

- Original recommendation was to make both the Administrator and II levels non-exempt
- Public comments expressing concern regarding the study were shared at the May 2025 Career Service Board on Class Notice 1861
- As a result of the May 15, 2025, hearing, OHR was directed to conduct additional review through job shadowing and the City Attorney's Office was asked to provide more in-depth legal review to confirm compliance with FLSA requirements

Post May 2025 Activities

- Classification & Compensation and HR Business Partner job shadowing of relevant positions (October-December 2025)
- City Attorney's Office review and legal analysis (December 2025-April 2026)
- City Attorney's Office recommendations (April 2026)
- OHR review and recommendations (April 2026)
- Presentations to Career Service Board 04/6/2026, 05/21/2026 and 06/18/2026
- Career Service Board approval of recommendations occurred on 06/18/2026

Job Shadowing

- OHR conducted 54 job shadowing sessions
- Total of 648 hours
- Gathered pertinent position specific information regarding nature of duties and responsibilities

Legal Document Review

- Fair Labor Standards Act (FLSA) / Not Colorado State Wage Orders (more narrow/not applicable)
- Code of Federal Regulations and case law referencing same
- FLSA Opinion Letters
- Office of Personnel Management (OPM) Opinion Letters
- Department of Labor (DOL) Interpretive Guidance
- Caselaw

FLSA Refresher

The FLSA is the primary law governing the results of this study and recommendations.

Under FLSA, employers classify employees into two main categories based on whether they're covered by minimum wage and overtime requirements:

1. *Exempt*
2. *Non-exempt*



Exempt Employees

- Salaried workers excluded from federal minimum wage and overtime protections under FLSA
- **Key requirements (all must be met):**
 - **Salary basis test:** Paid a predetermined, fixed salary not subject to quality or quantity fluctuations
 - **Salary level test:** Earn at least \$684/week (≈\$35,568/year federal minimum; state thresholds may be higher)
 - **Duties test:** Perform specific roles categorized under executive, administrative, professional (including learned/creative), outside sales, or certain computer roles
- No entitlement to overtime pay, regardless of hours worked



Non-Exempt Employees

- Employees covered by FLSA protections for minimum wage and overtime
- Usually paid hourly with time tracking requirement.
- Entitled to federal minimum wage (at least \$7.25/hour, or the higher applicable state/**local rate** - \$19.29/hr.)
- Eligible to earn overtime pay at 1.5× regular rate for hours over 40/week.



Executive Exemption

- Salary basis:** Minimum \$684/week salary.
- Primary duty:** Managing the enterprise or a recognized department.
- Supervision:** Regularly directs ≥ 2 full-time (or equivalent) employees.
- Authority:** Has power to hire/fire, or their recommendations carry significant weight.



Administrative Exemption

- Salary basis:** Minimum \$684/week salary.
- Primary duty:** Performing office/non-manual work directly related to management or general business operations.
- Judgment:** Exercises discretion and independent judgment on matters of significance. Court's views of the exemption have narrowed in recent years. More difficult to meet this exemption type.

Professional Exemption

Two subtypes:

Learned Professionals



- **Salary basis:** \$684/week minimum.
- **Primary duty:** Requires advanced knowledge (intellectual, discretion-based) gained via specialized education.

Creative Professionals

- **Salary basis:** \$684/week minimum.
- **Primary duty:** Involves invention, imagination, originality, or talent in recognized artistic or creative fields.

Factual Resources Reviewed

- Position Description Questionnaires (PDQs) – most current employees
- Stakeholder meetings, by agency and/or team
- Job shadowing Notes (8 hours each employee by both C/C analyst and HR Business Partner)
- Workday (human resources system) education and certifications
- Resume education and certifications
- Public employer job descriptions and exemption worksheets for similar positions

Legal Considerations

- Exemption provisions are very narrowly construed by auditors and courts
- Employers bear the burden of proving exemption
- Exemption for learned professionals high focus on education and certifications
- Exemption for executives requires supervision of at least 2 FTEs
- Exemption for administrative work should not ultimately provide the services of the agency to the public (including maintaining safe public spaces)

General Findings

- Duties/responsibilities varied based on department assignment
- Education/experience/certification of incumbents varied
- Title changes are required to better reflect duties and industry standards

General Findings

- **Entry level (SIH I)** - This classification is currently non-exempt and requires no FLSA status change
- **Journey – mid-level (SIH II)** - This classification is currently exempt and requires FLSA exempt status change to non-exempt
- **Advanced journey level (Administrator)** – This classification is currently exempt with mixed findings. Some positions fall under FLSA non-exempt status and require a change, while others remain exempt and require no change
- **Supervisor & Manager level** These classifications are currently exempt and require no FLSA status change

Recommendations – Classification Changes

Job Code	Job Profile Name	Current Pay Grade	New Pay Grade	Range Min	Range Max	Title
CA0973	Safety & Industrial Hygiene Professional I	NE-16		\$31.33	\$48.56	Safety Specialist I (title change)
CA0997	Safety & Industrial Hygiene Professional II (changes pay grade and FLSA status from exempt to non-exempt)	EX-11	NE-22	\$44.46	\$68.91	Safety Specialist II (title change)
CA0974	Safety & Industrial Hygiene Administrator	EX-13		\$93,566	\$154,384	Exempt
CA2215	Safety & Industrial Hygiene Supervisor	EX-14		\$101,050	\$166,733	Exempt
CA3513	Safety Manager	EX-15		\$109,134	\$180,071	Safety & Industrial Hygiene Manager (title change)

Recommendations – Employee Impacts

Affects 29 Employees in 5 Agencies:

- 8 SIH Professional IIs - FLSA status change to non-exempt with title change to Safety Specialist II
- 1 SIH Professional II - Reallocated to SIH Administrator level
- 2 SIH Professional Is- Remain non-exempt with title change to Safety Specialist I
- 6 Safety Managers - Remain exempt with title change to Safety & Industrial Hygiene Manager
- 12 SIH Administrators - Reallocated to Safety Specialist II (non-exempt)

If an employee is currently in, or is recommended move into, a classification that is changing pay grades, their new pay is calculated by converting their current annual pay to an equivalent hourly rate (no loss of pay)

Annualized budget impact of one employee reallocation, and three employees increased to new range minimum = \$24,767.90

Foundation for Proposed FLSA Exemption Adjustment

- Controlling authority places the burden on the employer to prove proper exemption classification
- The detailed duties of each active employee and the amount of time performing each duty was closely examined through job shadowing, PDQ's, and job descriptions.
- The education and certification of incumbents was closely examined.
- For the Learned Professional Exemption under FLSA (which is what applies here) education and certification are weighed equally to job duties
- Considers whether the primary work duties involve the requisite discretion and independent judgment to be supported as exempt. Ordinary inspection work is generally not exempt administrative work, and the City faces a high burden to overcome this presumption.

Foundation for Proposed FLSA Exemption Adjustment continued...

- Exercise of discretion and independent judgment involves comparing and evaluating possible courses of conduct and acting or making a decision after the various possibilities have been considered. Taking well-established techniques or procedures described in manuals or other sources (codes, contract obligations, etc.) and applying them within closely prescribed limits to determine the correct response to an inquiry or set of circumstances is nonexempt work.
- The monetary effect of decision-making on work stoppage does not transform a safety decision into having the minimum threshold of discretion to be considered exempt work since any employee is encouraged and authorized to stop unsafe practices in the best interests of the City and the public.

Recommendations Continued...

- In addition to the status changes and related class adjustments, we propose back pay with a lookback period of 2 years for anyone moving from exempt to non-exempt to account for overtime-eligible hours previously worked.
- Implementation at the discretion of department leadership.

Risk Analysis

- Violations of the Fair Labor Standards Act (FLSA) pose severe financial and legal risks to employers, including back wage liability, substantial fines, and lawsuits

Civil Money Penalties: Civil penalties of up to \$1,000 can be imposed for each willful or repeated overtime violation

Criminal Prosecution: Willful violations may lead to criminal penalties, including fines of up to \$10,000 for each violation and potential imprisonment for a second conviction

- **One of the top causes of FLSA liability** - Incorrectly classifying workers as exempt from overtime (when they should be non-exempt)

Recommendations - Conclusion

- Fair pay practice – allows some of the impacted employees to appropriately earn overtime
- Reduces risk to the City - FLSA compliance
- Maintains integrity of the classification system
- Consistent with CAO findings
- No employee will experience a reduction in pay
- Job descriptions have been realigned to delineate differences between levels