

FAQ's About Exempt Employee Status in the Public Sector

I. **Who is an exempt employee?**

Within Maricopa it has been determined that that employees covered by the MAT and CEC policy are exempt employees.

II. **What does it mean to be an exempt employee?** *The Fair Labor Standards Act (FLSA) establishes a minimum wage and a forty-hour overtime standard for covered employees. **The FLSA exempts employees who qualify under definitions of executive, administrative, professional or computer employees.** These definitions are complex, but the compensation department has reviewed all MCCCDC job descriptions and has determined which jobs are exempt. (<http://www.maricopa.edu/legal/dp/inbrief/labor.htm>)*

III. **Is there a difference in how exempt status applies for public sector employees?** *Special rules apply for governmental employers with personal leave and sick leave accrual policies; generally, due to principles of public accountability for tax money, governmental employers may dock salaried employees' pay for absences of less than a day without losing the salary basis for the exemption, as long as the absences are due to personal or health-related reasons, assuming that the employee is either out of paid leave, chooses not to use it, or has been denied permission to use paid leave (29 C.F.R. 541.710, formerly 29 C.F.R. 541.5d; DOL administrative letter rulings of January 9, 1987 and July 17, 1987).*

IV. **What guidelines do we have about the application of exempt status at Maricopa?**

Per the MAT policy manual:

21.1. MAT employees are expected to adhere to a minimum of a forty (40) hour work week.

21.4. Flex Schedule -- Employees shall be able to modify the workday with supervisor approval without loss of leave time, provided the work week is fulfilled as outlined for exempt employees in the Fair Labor Standards Act.

V. **Considerations**

Considerations for Supervisors – *Be consistent and fair with all of your employees. With exempt employees who are expected to provide more than 40 hours of work per week as the job demands, a certain amount of flexibility in scheduling seems appropriate. To evaluate the request, consider how the request will impact the effective operations of the department and whether the decision will be replicable for other employees in similar situations.*

Considerations for Employees –*You are expected to work a minimum of 40 hours. Consult with your supervisor ahead of time to request schedule changes or other flexible arrangements. There may be times because of projects, obligations and general workload when changes may not be possible. The decision is at your supervisor’s discretion.*

VI. **FAQ’s**

- a. **Am I required to have and adhere to a set work schedule?** *Yes, you may even need to put in additional time, beyond 40 hours.*
- b. **Am I required to work 40 hours a week?** *Yes, MAT employees are expected to adhere to a minimum of a forty (40) hour work week. (MAT Policy manual 21.1)*
- c. **If I put in 40 hours early in the week (for example by the end of the day Thursday), can I take the rest of the week off or sometime off equal to or less than that in a another week?** *No, you cannot take the rest of the week off. MAT employees are required to work a minimum of forty (40) hours per work week. As an exempt employee you are expected to provide additional hours as needed to perform the job.*

*However, Employees shall be able to modify the workday **with supervisor approval** without loss of leave time, provided the work week is fulfilled as outlined for exempt employees in the Fair Labor Standards Act. (MAT 21.4). As an example, if an employee works late the prior day they cannot choose to come in late to work the next day without supervisor’s approval.*

- d. **What if I attend a conference that is on Friday, Saturday, Sunday, can I take off Monday and Tuesday since I worked the weekend?** *This is at a supervisor’s discretion. A supervisor needs to be consistent with their employees given similar circumstances. This does not mean that a supervisor must always allow or deny any request, but they need to be consistent on how they respond to employees in similar circumstances with similar requests.*
- e. **How should one handle a request from an employee who works from home over the weekend or in the evening, then wants to take some time off during that week?** *This is at a supervisor’s discretion. A supervisor needs to be consistent with their employees given similar circumstances. This does not mean that a supervisor must always allow or deny any request, but they need to be consistent on how they respond to employees in similar circumstances with similar requests.*
- f. **Does an exempt employee have to report time out of the office if it is less than 4 hours or half a day? And can they be docked for taking less than 4 hours or half a day?** *Employees need to report exception time*

even if they have worked 4 hours or more in a day. Special rules apply for governmental employers with personal leave and sick leave accrual policies; generally, due to principles of public accountability for tax money, governmental employers may dock salaried employees' pay for absences of less than a day without losing the salary basis for the exemption, as long as the absences are due to personal or health-related reasons, assuming that the employee is either out of paid leave, chooses not to use it, or has been denied permission to use paid leave (29 C.F.R. 541.710, formerly 29 C.F.R. 541.5d; DOL administrative letter rulings of January 9, 1987 and July 17, 1987).

- g. **As an exempt employee, can I teach during my hours of accountability?** *An exempt MAT employee may accept teaching assignments within the District and will be paid at the Residential Faculty Overload Rate if: The employee receives documented approval from his or her supervisor should the teaching assignment take place during the employee's normal working hours, and includes a documented plan for fulfilling required hours and any special circumstances related to their primary responsibilities including travel time if required. (MAT policy manual 6.2.2.)*

VII. Resources for further information

- a. Fair Labor Standards Act -- http://www.dol.gov/esa/whd/regs/compliance/fairpay/fs17a_overview.htm
- b. MCCCCD Legal Department information on FLSA -- <http://www.maricopa.edu/legal/dp/inbrief/labor.htm>
- c. MAT Policy manual -- <http://www.maricopa.edu/mat/policy/>
- d. For further questions about policy contact MCCCCD Legal Department
- e. For further questions about application of policy, contact MCCCCD Employee Relations.