State University of New York
FLSA Administrative Exemption Checklist

Position/Title	_____	Campus Title:	_____
Salary Level:	_____	Department:	_____
Line #:	_____	Employee:	_____

Applicable to employees who perform office or non-manual work which is directly related to the management policies or general business operations of their employer or their employer's customers **(Test 1 Below)**, or perform such functions in the administration of an educational establishment **(Test 2 Below)**; who regularly exercise discretion and judgment in their work; who either assist a proprietor or executive, perform specialized or technical work, or execute special assignments; who receive a salary which meets the requirements of the exemption; and who do not devote more than 20% of their time to work other than that described above (40% in retail and service establishments).

☐ Test 1:
Administration Exemption

To qualify for the administrative employee exemption, **all** of the following tests must be met:	**Yes**	**No**
➢ The employee is compensated on a salary or fee basis (as defined in the regulations) at a rate not less than $455 per week (or $910 biweekly), regardless of FTE?	☐	☐
➢ The employee's **primary duty** must be the performance of office or non-manual work **directly related to the management or general business operations** of the employer or the **employer's customers**; o "**Primary duty**" means the principal, main, major or most important duty that the employee performs. Determination of an employee's primary duty must be based on all the facts in a particular case, with the major emphasis on the character of the employee's job as a whole.	☐	☐
o To meet the "**directly related to management or general business operations**" requirement, an employee must perform work directly related to assisting with the running or servicing of the business, as distinguished, for example from working on a manufacturing production line or selling a product in a retail or service establishment. Work "directly related to management or general business operations" includes, but is not limited to, work in functional areas such as tax; finance; accounting; budgeting; auditing; insurance; quality control; purchasing; procurement; advertising; marketing; research; safety and health; personnel management; human resources; employee benefits; labor relations; public relations; government relations; computer network, Internet and database administration; legal and regulatory compliance; and similar activities.	☐	☐
o An employee may qualify for the administrative exemption if the employee's primary duty is the performance of work directly related to the management or general business operations of the **employer's customers**. Thus, employees acting as advisors or consultants to their employer's clients or customers — as tax experts or financial consultants, for example — may be exempt.	☐	☐
➢ The employee's primary duty includes the **exercise of discretion and independent judgment** with respect to **matters of significance**. o In general, the **exercise of discretion and independent judgment** involves the comparison and the evaluation of possible courses of conduct and acting or making a decision after the various possibilities have been considered. The term must be applied in the light of all the facts involved in the employee's particular employment situation, and implies that the employee has authority to make an independent choice, free from immediate direction or supervision. Factors to consider include, but are not limited to: whether the employee has authority to formulate, affect, interpret, or implement management policies or operating practices; whether the employee carries out major assignments in conducting the operations of the business; whether the employee performs work that affects business operations to a substantial degree; whether the employee has authority to commit the employer in matters that have significant financial impact; whether the employee has authority to waive or deviate from established policies and procedures without prior approval, and other factors set forth in the regulation. The fact that an employee's decisions are revised or reversed after review does not mean that the employee is not exercising discretion and independent judgment. The exercise of discretion and independent judgment must be more than the use of skill in applying well-established techniques, procedures or specific standards described in manuals or other sources	☐	☐

To qualify for the administrative employee exemption, **all** of the following tests must be met:	**Yes**	**No**
o The term "**matters of significance**" refers to the level of importance or consequence of the work performed. An employee does not exercise discretion and independent judgment with respect to matters of significance merely because the employer will experience financial losses if the employee fails to perform the job properly. Similarly, an employee who operates very expensive equipment does not exercise discretion and independent judgment with respect to matters of significance merely because improper performance of the employee's duties may cause serious financial loss to the employer.	☐	☐
	Yes	**No**
Has 'Yes' been checked for each criteria above? If yes, the position is exempt. If no, the position is non-exempt under the administrative exemption and therefore covered by the FLSA.	☐	☐

☐ Test 2:
Educational Establishment Administration Exemption

To qualify for the educational establishment administrative employee exemption, **all** of the following tests must be met:	**Yes**	**No**
➢ The employee is compensated on a salary or fee basis (as defined in the regulations) at a rate not less than $455 per week (or $910 biweekly), regardless of FTE?	☐	☐
➢ The employee's **primary duty** is performing **academic administrative functions** directly related to academic instruction or training in an educational establishment. o "**Primary duty**" means the principal, main, major or most important duty that the employee performs. Determination of an employee's primary duty must be based on all the facts in a particular case, with the major emphasis on the character of the employee's job as a whole. o **Academic administrative functions** include operations directly in the field of education, and do not include jobs relating to areas outside the educational field. Employees engaged in academic administrative functions include: the superintendent or other head of an elementary or secondary school system, and any assistants responsible for administration of such matters as curriculum, quality and methods of instructing, measuring and testing the learning potential and achievement of students, establishing and maintaining academic and grading standards, and other aspects of the teaching program; the principal and any vice-principals responsible for the operation of an elementary or secondary school; department heads in institutions of higher education responsible for the various subject matter departments; academic counselors and other employees with similar responsibilities	☐ ☐	☐ ☐
	Yes	**No**
Has 'Yes' been checked for each criteria above? If yes, the position is exempt. If no, the position is non-exempt under the educational establishment administrative exemption and therefore covered by the FLSA.	☐	☐

Based on these guidelines, this position is declared: ☐ Exempt ☐ Non-exempt

Notes: _____

Reviewer	Review Signature	Date