

**State University of New York
FLSA Professional Exemption Checklist**

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

Applicable to employees who perform work requiring advanced knowledge and education, work in an artistic field which is original and creative, work as a teacher, doctor, or lawyer who regularly exercise discretion and judgment; who perform work which is intellectual and varied in character, the accomplishment of which cannot be standardized as to time; who receive a salary which meets the requirements of the exemption (except doctors, lawyers, and teachers). Multiple tests apply below:

**Test 1:
Professional Exemption**

To qualify for the professional employee exemption, all of the following tests must be met:	Yes	No
<ul style="list-style-type: none"> ➤ The employee must be compensated on a salary basis (as defined in the regulations) at a rate not less than \$455 per week; (or \$910 biweekly) 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> ➤ The employee’s primary duty must be the performance of work requiring advanced knowledge, defined as work which is predominantly intellectual in character and which includes work requiring the consistent exercise of discretion and judgment; <ul style="list-style-type: none"> ○ “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. ○ “Work requiring advanced knowledge” means work which is predominantly intellectual in character, and which includes work requiring the consistent exercise of discretion and judgment. Professional work is therefore distinguished from work involving routine mental, manual, mechanical or physical work. A professional employee generally uses the advanced knowledge to analyze, interpret or make deductions from varying facts or circumstances. Advanced knowledge cannot be attained at the high school level. 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> ➤ The advanced knowledge must be in a field of science or learning; <ul style="list-style-type: none"> ○ Fields of science or learning include law, medicine, theology, accounting, actuarial computation, engineering, architecture, teaching, various types of physical, chemical and biological sciences, pharmacy and other occupations that have a recognized professional status and are distinguishable from the mechanical arts or skilled trades where the knowledge could be of a fairly advanced type, but is not in a field of science or learning. 	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> ➤ The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction. <ul style="list-style-type: none"> ○ The terms “customarily acquired by a prolonged course of specialized intellectual instruction” is defined as follows: The learned professional exemption is restricted to professions where specialized academic training is a standard prerequisite for entrance into the profession. The best evidence of meeting this requirement is having the appropriate academic degree. However, the word “customarily” means the exemption may be available to employees in such professions who have substantially the same knowledge level and perform substantially the same work as the degreed employees, but who attained the advanced knowledge through a combination of work experience and intellectual instruction. This exemption does not apply to occupations in which most employees acquire their skill by experience rather than by advanced specialized intellectual instruction. 	<input type="checkbox"/>	<input type="checkbox"/>
Has ‘Yes’ been checked for each criteria above? If yes, the position is exempt. If no, the position is non-exempt under the professional exemption and therefore covered by the FLSA.	<input type="checkbox"/>	<input type="checkbox"/>

