

## Lesson Plan

for Handout (HO) and PowerPoint (PP) entitled

### “Exempt” and “Non-Exempt” Employees: What the Distinction Means for Unit 4 Members

- I. HO pages 1-2, PP slides 3-10: Summary of the Fair Labor Standards Act (FLSA)
- HO p. 1, PP s. 3-4: FLSA requires
    - payment of *minimum wage* of currently \$7.25 per hour *and*
    - *overtime compensation* at time-and-a-half of regular rate for each hour worked beyond forty (40) hours in any week.
  - HO p. 1-2, PP s. 4-5: Overtime can be compensated through *compensatory time off* in lieu of money
    - *if* CBA says so or
    - *if* individual employee agrees beforehand.
  - PP s. 6-7: FLSA also contains child-labor laws that, like minimum wage and 40-hour week, were hard-fought victories of the labor movement.
    - PP. s. 6: Banners at early 20<sup>th</sup> century rally read “Abolish Child Slavery” in English and Yiddish.
    - PP s. 7: 1886 “Haymarket Massacre” at Chicago rally for 8-hour day.
  - HO p. 2, PP s. 8-9: *Administrative employees* are *exempt* from (i.e., not entitled to) minimum wage and overtime compensation *if* their primary duty
    - “is the performance of office or *non-manual work* directly related to the management or general business operations” *and*
    - “includes the exercise of *discretion and independent judgment* with respect to matters of significance.”
- II. HO p. 2-5, PP s. 11-15: Application of Exempt/Non-Exempt Distinction to Unit 4 Employees
- HO p. 3, PP s. 11-12: Exempt Unit 4 classifications are listed in Appendix C to the CBA, non-exempt classifications in Appendix D.
  - HO p. 4-5, PP s. 13-15: Student Services Professionals
    - HO p. 4, PP s. 13-15: SSP I is classified as *non-exempt* because they “do not customarily and regularly exercise discretion and independent judgment.”
    - HO p. 5: SSP II-IV are classified as *exempt* because they exercise more discretion and independent judgment.
- III. HO p. 5-9, PP s. 16-28: Exempt and Non-Exempt Unit 4 Employees and the CBA
- HO p. 6, PP s. 16-17: Although not covered by the FLSA and therefore not entitled to overtime, *exempt* Unit 4 employees are covered by the CBA and under it
    - have the right to “an average of forty (40) hours per week during any six (6) consecutive pay periods” and

- “shall not be assigned an unreasonable or excessive workload.”
- HO p. 6, PP s. 18: Although the FLS does not cover this topic, the CBA entitles *exempt* and *non-exempt* Unit 4 employees to *unpaid* meal periods.
- HO p. 6-7, PP s. 19: Pursuant to the FLSA, the CBA allows overtime compensation for *non-exempt* Unit 4 employees by
  - cash or
  - compensatory time off.
- HO p. 7, PP s. 20-21: Although the FLSA does not cover this topic, the CBA entitles *non-exempt* Unit 4 employees to
  - *paid* rest periods and
  - if they are require to remain “on the job,” *paid* meal periods.
- HO p. 8-9, PP s. 22-28: Time spent “on call” or worked during “call back” count as “hours worked” for *exempt* residence life employees and as part of the “workday” for *non-exempt* residence life employees as follows:
  - Such employees receive credit for the *first two hours* of continuous “on-call” time if the only restriction during on-call is that they are “available to report for work fit for duty and in a timely manner.”
  - Such employees receive credit for the *entire time* of continuous “on-call” duty if there are restrictions on their “alcohol use” or “geographical location” during on-call.
  - Such employees receive credit for time worked during “call back” beyond the first two hours of continuous “on-call” time already compensated.

IV. HO p. 9-10, PP s. 29-36: Answers to FAQs

- HO p. 9, PP s. 29-30: *Exempt* Unit 4 employees must adhere to established schedules and work appropriate hours or face discipline.
- HO p. 9-10, PP s. 31-32: *Exempt* Unit 4 employees
  - can *grieve* assignments that require them to work more than an average of forty (40) hours per week over six (6) months or impose on them an “unreasonable or excessive workload,” *but*
  - must *perform* such assignments or face discipline until a grievance is filed and while it is pending, following the rule “work first, grieve later.”
- HO p. 10, PP s. 33-34: The CSU cannot dock your pay or require you to take sick leave or vacation for *partial day absences*.
- PP s. 35-36: Once the CBA has expired, and until a new CBA goes into effect, you cannot be forced to accept compensatory time off in lieu of money for overtime.