Kings Community Action Organization
Administrative Policy

AP 3255
Human Resources: Employees

Exempt Employee Policy

Purpose: The purpose of this policy is to properly classify exempt employees and comply with state laws and the federal Fair Labor Standards Act.

Policy

In accordance with the Fair Labor Standards Act, exempt employees are paid on a salary basis and may not have their pay reduced for variations in the quantity or quality of work performed. Employees who feel their pay has been improperly reduced should report this immediately following the Complaint Procedures below.

Note: Deductions from pay are permissible when an exempt employee is absent from work for one or more full days for personal reasons that do not qualify for sick or vacation time. Such pay deductions must be made in full day increments. Deductions from sick and vacation balances are permissible in half day increments.

Provisions Mandated by the Salary Basis Rules:
It is KCAO’s provision that exempt employees normally work a core 40 hours per week, with a minimum of 4 hours each scheduled workday. Any variation of this schedule, including an alternative workweek, must be approved by the immediate supervisor and must still meet the full time employment expectation.

Any time logs completed by exempt employees shall be maintained by the exempt employee or department head at the department head’s discretion. These logs do not need to be sent to the finance department. Exempt employees shall complete and submit absence forms to their department head for sick leave and vacation, which will be due in the Finance Department for processing at the time required for timesheets.

The few exceptions to the requirement to pay exempt employees on a salary basis are listed below:

1. Absences of one or more full days for personal reasons other than sickness or disability when the employee has exhausted all vacation time or the employee has requested leave without pay.
2. Absences of one or more full days due to sickness or disability when the employee has exhausted all paid leave benefits.
3. Unpaid disciplinary suspensions of one or more full days in accordance with KCAO’s policies.
4. Deductions for unpaid leave taken in accordance with a legitimate absence under the Family Medical Leave Act or the California Family Rights Act.
5. Deductions for the first and last week of employment, when only part of the week is worked by the employee.

Complaint Procedures:
Employees who believe their pay has been improperly reduced should contact the Human Resources or Finance Department and follow these procedures:

1. The employee is responsible for submitting their complaint in writing via memo or e-mail. The complaint should include the dates and circumstances of the pay deduction and whether it has occurred on other occasions.
2. The Human Resources or Finance Department will review the complaints, the pay records and interview the supervisor and employee to determine if the pay deduction was in compliance with KCAO policy.
3. If the deductions were improper, the money will be reimbursed to the employee as promptly as possible.
4. The resolution of the situation will be documented and placed in the employee’s payroll file.

Procedures

There are three types of employees that are exempt under federal and state law: executive, administrative, and professional. A big misconception is that paying a "salary" alone makes an employee "exempt." Not true. In addition to payment on a salary basis, there is a “duties test” that must be met. Employees may be exempt from the overtime wage provisions of the Fair Labor Standards Act and the applicable IWC Wage Order(s).

In order for an employee to qualify as being exempt and thus not be required to be paid at one and one half his or her regular salary, an employee need only qualify under one of the following exempt categories:

1. EXECUTIVE - To be considered for being classified as an exempt executive employee, an employee must earn a monthly salary equivalent to no less than two times the state minimum wage for full-time employment*; be primarily** engaged in duties which consist of management of a company or customarily recognized department or subdivision, regularly supervise and direct two or more employees, and must have authority to hire or fire other employees and make meaningful suggestions and recommendations relating to the hiring, firing, and any status changes of other employees.

2. ADMINISTRATIVE - To be considered for being classified as an exempt administrative employee, an employee must earn a monthly salary equivalent to no less than two times the state
minimum wage for full-time employment*; the employee’s primary** duty is to perform office or non-manual work related to the management policies or general business operations of the employer or the employer’s customers; regularly and directly assists a proprietor or employee in an executive or administrative capacity; and regularly performs duties that require the exercise of discretion and independent judgment. (As defined in 29 CFR 541.207 (a) this implies that the employee has the authority or power to make an independent choice, free from immediate direction or supervision, with respect to matters of significance.)

3. PROFESSIONAL - To be considered for being classified as an exempt professional employee, an employee must earn a monthly salary equivalent to no less than two times the state minimum wage for full-time employment*; regularly exercise discretion and independent judgment in the performance of duties requiring advanced knowledge or very specialized education and training and/or; duties that consist of work creative in character requiring invention, imagination or talent in a recognized field of artistic or creative endeavor.

* Full-time employment means 40 hours per week as defined in California Labor Code Section 515(c).

** Primarily means that more than one-half of the employee’s worktime (California Labor Code Section 515(e)).

Human Resources will review exempt employees' classifications regularly to determine whether the employee still qualifies to be classified as exempt. If the employee is determined not to meet the qualifications of an exempt employee then the employee will be promptly reclassified as non-exempt and paid overtime in accordance with federal and state law.

The Executive Director or his/her designee may develop administrative guidelines to enforce a fair and consistent application of this policy.

References:
29 CFR 541.207 (a)

Adopted By Board of Directors: August 20, 2011
Revised and Approved By Board of Directors: November 20, 2019