

# HR CONTACTS MEETING

June 22, 2016  
1:30 p.m.  
ITD Building, Rm 425

## Welcome & Introductions - Becky Sicble

- + New HRMS Staff
- + Attorney General Employment Attorneys

## FLSA - Troy Seibel, ND Labor Commissioner

- + Overview of upcoming salary test changes
- + Review of other exemption criteria
- + Question & Answer session

## Compensation Guidance - Becky Sicble & Lynn Hart

- + Guidance on compensation increase considerations for remainder of current biennium

## Overview of Employee Separation Programs - Kim Wassim

## Recruiting Solutions Users Group Update - Lynn Hart

# OVERTIME RULES

TROY T. SEIBEL  
COMMISSIONER OF LABOR  
NORTH DAKOTA DEPARTMENT OF LABOR AND HUMAN RIGHTS

## OVERTIME

### ✘ Who is exempt from overtime?

- 4 primary exemptions
- "Administrative" employees
- "Executive" employees
- "Professional" employees
- "Highly compensated" employees

Additional exemptions can be found in N.D.A.C. § 46-02-07-02(4)

## OVERTIME (CONT.)

### ✘ "Administrative" employees are those whose primary duties consist of:

- Performance of office or non-manual work directly related to management policies or general business operations of the employer, AND
- Customarily and regularly exercise discretion and independent judgment

Possible examples include: a project manager, finance manager, marketing manager, etc.

N.D.A.C. § 46-02-07-01(1)

## OVERTIME (CONT.)

- ✘ “Executive” employees are those whose primary duties consist of:
  - Management of the enterprise in which the employee is employed or of a customarily recognized department or subdivision,
  - Directs the work of two or more employees, AND
  - Authority to hire, fire, promote other employees (or ability to influence those decisions)

Possible examples include president, CEO, vice president of international affairs, etc.

N.D.A.C. § 46-02-07-01(6)

## OVERTIME (CONT.)

- ✘ “Professional” employees are those whose primary duties consist of:
  - Work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized instruction and study,
  - Work requiring consistent exercise of discretion and judgment, AND
  - Work that is predominantly intellectual and varied in character and is of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time

Possible examples include attorneys, physicians, etc.

N.D.A.C. § 46-02-07-01(10)

## OVERTIME (CONT.)

- ✘ A “highly compensated” employee is one who:
  - Paid total annualized compensation of \$100,000 or more,
  - Receives at least \$455/week, AND
  - Primary duties consist of office or non-manual work

N.D.A.C. § 46-02-07-01(7)

## OVERTIME (CONT.)

- ✘ New overtime rule issued by USDOL
  - Current federal regulations require “administrative”, “executive”, and “professional” employees receive at least \$455 per week (\$23,660 per year)
  - New rule increases this floor to \$913 per week (\$47,476 per year)
  - Effective December 1, 2016

## OVERTIME (CONT.)

- ✘ Employers frequently misclassify employees as exempt from overtime.
- ✘ Costly – employees can recover up to two years of overtime pay (possibly three)
- ✘ An employee cannot be both exempt and non-exempt (what are the employee's primary duties?)
- ✘ Enforcement priority for USDOL

## QUESTIONS? CONTACT US:

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