

# Supervisor Training

## The Essentials for Managing Employees in Arizona State Government

### Questions and Answers

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*The following information was developed from the actual questions that were received from supervisors attending the supervisor training.*

## WAGE AND HOUR

### 1. What is the difference between exempt and non-exempt?

Exempt and non-exempt are terms used when referring to whether an employee is not subject to (i.e., exempt) or subject to (i.e., non-exempt) the federal Fair Labor Standards Act (FLSA).

Employees in FLSA non-exempt jobs:

- Are paid for all hours worked, including additional pay for additional hours worked
- Must be paid at overtime rates if they work beyond 40 hours in a week

Employees in FLSA exempt jobs:

- Are paid to get the job done regardless of hours worked
- Are paid an established salary
- Are not eligible for overtime pay

### 2. Will supervisors be salaried? If so, will they be required to work more than 40 hours without additional pay?

Some supervisors will be salaried and other supervisors will not be salaried. The Fair Labor Standards Act ("FLSA") requires employers to pay overtime to any employee who works more than 40 hours in a work week, unless that employee falls within one of the specific exemptions to the overtime requirement.

### 3. I still don't get exempt and non-exempt. I can't determine what I am or what I will be if my status changes from covered to uncovered?

Regardless of your covered/uncovered status, your exempt/nonexempt status will be as follows:

- If you are currently receiving overtime at a rate of 1 ½ times your hourly salary for each hour worked over 40 hours in a workweek, you will continue to receive this overtime. You are considered a non-exempt employee.
- If you are currently receiving overtime at a rate of one hour for each hour worked over 40 hours in a workweek, with the exception of employees engaged in law enforcement or fire-fighting activities, you will no longer receive this additional compensation. You are considered an exempt employee.
- If you are not currently receiving overtime for hours worked over 40 hours in a workweek, you will continue not to receive overtime. You are considered an exempt employee.

### 4. When you work in a facility where an access point is different than your work station, when is an employee on work hours? When at the work station or at the facility access point?

"Workday", in general, means the period between the time on any particular day when an employee commences his/her "principal activity" and the time on that day at which he/she ceases such principal activity or activities.

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**5. If an employee comes in early and reads the newspaper, is that time compensatory?**

Not typically, unless the employee is FLSA non-exempt and begins working, such as by checking emails, referring phone calls or assisting customers. Some employees may arrive at work early due to bus schedules, carpools, to avoid being late, or other reasons. A supervisor should take steps to ensure a FLSA non-exempt employee does not start working prior to his/her scheduled start time by having an employee who arrives early go to an area other than the employee's work station, such as a breakroom to read the newspaper, until the employee is scheduled to begin working.

**6. An exempt employee can work 60 to 80 hours a week. But on the time card only reads 40 hours because they are exempt. Is this in accordance with FLSA?**

An exempt employee's pay does not depend on the number of hours worked within a week; the salary cannot be reduced because of changes in the quantitative or qualitative aspects of the job. In other words, it is assumed the exempt employee will be paid his or her regular salary unless an exception is made, such as a vacation or sick day.

**7. Did I understand correctly that meal breaks are not mandatory in the State of Arizona?**

You are correct. Federal and Arizona state laws do not require employers to provide meal, lunch, or break periods for their employees.

**8. We have many employees that are approved to work remotely from home a few days per week. How do we ensure they are only working 40 hours per week if they are non-exempt?**

Below are some guidelines and internal controls that should be reviewed and followed before a telework arrangement is approved:

- Verify the teleworker's FLSA exemption status before telework begins.
- A supervisor must scrutinize closely all time cards, especially teleworkers, at the end of each pay period and certify only those that agree with the time and work product expectations.
- Actively manage remote technology use by consistently reminding employees to use these technologies only during authorized hours. This includes smartphones, e-mail, laptops, and remote computing programs.
- Immediately challenge any unauthorized work, including inconsistencies in time sheets.
- Set clear expectations for work progress updates, the daily and weekly schedule, and pre-approval for schedule changes. Is the quality and quantity of work being accomplished in a telework arrangement satisfactory?
- Ensure telework agreements include a provision that specifically states overtime is not permitted or authorized without prior advanced supervisory approval.

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#### **PERFORMANCE MANAGEMENT**

**1. Is it true that a supervisor's performance appraisal will be based on the scores of those they directly supervise?**

Not until the State implements 360 degree performance reviews. The State will be implementing the new performance management system in two phases. The first phase which will be implemented in 2013 will include the supervisors rating their employees. During this first phase employees will also be asked to participate in a self-evaluation which will give an employee an opportunity to provide feedback regarding their own performance. The second phase which is anticipated to be implemented after 2013 will include a 360 degree feedback process which consists of feedback from an employee's subordinates, peers, and supervisor, as well as a self-evaluation.

**2. If evaluations are done annually in a computer program now will positive and negative behavior be documented throughout the year?**

Both the supervisor and the employee should be actively involved in monitoring the employee's performance during the rating period. Throughout the rating period, the supervisor should provide feedback to the employee, reinforcing good performance and correcting poor performance. The employee should be encouraged to discuss both performance successes and problems throughout the rating period. The new automated performance management system will allow the supervisor and employee to document performance throughout the rating period to facilitate the discussion between the supervisor and the employee.

**3. How will transition be made from the current evaluation system to the new evaluation system? When is the target date for the new evaluation system?**

It is the intent to transition to the new performance management system January 2013. ADOA will work with each agency to implement a plan to transition from the agency's current system to the new system.

**4. If I have an employee currently on probation, at what point after September 29th do I close out his probationary PASE?**

A probationary employee whose probationary period end date is after September 28, 2012, and the employee will

- Remain covered after September 29, 2012: should receive an evaluation at the end of the employee's probationary period
- Become at will uncovered on September 29, 2012 or voluntarily elects to become uncovered: should not receive an evaluation and should not be granted permanent status because the employee will be uncovered

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#### **LEAVE**

**1. Is there still going to be payment of sick leave balance upon retirement?**

Yes. The Arizona Retiree Accumulated Sick Leave (RASL) Program offers an officer or employee of the State of Arizona the opportunity for payment of accumulated (unused) sick leave at retirement. To determine if you are eligible, please check the General Accounting Office website at <http://www.gao.az.gov/rasl/default.asp>.

#### **TRANSITION TO UNCOVERED AT-WILL**

**1. If an employee transfers from one office to the same job in another office, will that employee become uncovered?**

If a covered employee voluntarily accepts a change in assignment, including promotion, transfer or demotion, the employee will become uncovered.

**2. How will we as supervisors know which of our employees chose to go uncovered? Is it considered confidential information?**

ADOA will provide agencies a list of employees who become uncovered on September 29, 2012 pursuant to HB 2571 and who voluntarily elected to become uncovered.

**3. As a supervisor, am I able to ask an employee if they are uncovered?**

Your agency human resources office will be able to provide you with a list of your employees that are covered and uncovered.

**4. An employee hired on or after September 29, 2012 will be uncovered. Does this apply to the listed positions (e.g. supervisors, IT) or does this include grade 18 and below?**

With some exceptions (e.g. Correctional Officers), all employees hired on or after September 29, 2012 will be uncovered regardless of their position.

#### **SEPARATION**

**1. What is the difference between layoff and RIF?**

A layoff and a reduction in force is an involuntary separation of an employee from state employment due to a shortage of funds, lack of work, organizational changes, or other reasons of business necessity which require a reduction in staff. Layoff is a term used for uncovered employees. A reduction in force is a term used for covered employees. A reduction in force is administered in accordance with the Personnel Rules R2-5B-601 – R2-5B-603.

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#### **DISCIPLINE**

- 1. Will employee history prior to reform personnel system enactment be considered in at will employment termination? Or is this a clean start with employee discipline base upon new system implementation?**

Before any discipline is administered under the new state personnel system, the agency may consider the following factors: the repeated nature of violations, prior corrective or disciplinary actions, previous oral discussions, the employee's past work record, the effect on agency's operations, the potential of the violations for causing damage to persons or property, severity of infraction, prior knowledge of rules and standards, and consistent application of rules and standards.

#### **BENEFITS**

- 1. Does being an uncovered employee affect my health insurance, i.e. can the state stop providing me health insurance or allow the state to raise my premiums?**

Health insurance decisions are not associated with or linked to an employee's covered or uncovered status.

#### **DISCRIMINATION/HARRASSMENT**

- 1. Aren't all state employee protected from harassment and discrimination already?**

Yes, federal and state laws make it illegal for an employer to discriminate against employees or job applicants who are members of a protected group in hiring, firing, pay, or other terms and conditions of employment. However, this is the first time that the State will have a statutory requirement to have internal procedures for handling complaints of harassment and discrimination.

#### **GENERAL**

- 1. Can we provide our employees with a copy of the personnel reform at a glance document that was handed out during the supervisor training?**

Yes