



New Minimum Wage Increases Impact Minimum Salary Required for Exempt Employees

Governor Schwarzenegger recently signed SB 1835 into law, raising the minimum wage in California to \$7.50 per hour, effective January 1, 2007. On January 1, 2008 the minimum wage will increase again, to \$8.00 per hour. This new law impacts charter schools because it affects who is defined as an “exempt employee” for purposes of overtime pay and wage and hour requirements. Generally, teachers and administrators are considered exempt employees, but under state and federal law, the determination of what makes an employee exempt from overtime pay can be very difficult. In a nutshell, in order to be deemed exempt from overtime, there are two basic tests that both must be met:

- 1) **Salary Basis Test:** To be deemed exempt from overtime law, the employee must be paid a minimum salary. The minimum salary is two times the minimum wage in the state (see below).
- 2) **Duties Test:** In addition to the minimum salary, to be deemed exempt, the employee must be performing a majority of duties that may be administrative, management and professional in nature and the employee must exercise a significant level of discretion over final decisions in his/her position.

Currently, in order to classify an employee as “exempt”, that employee must make at least \$28,080 per year. Under the new law, as of January 1, 2007, an employee must make at least **\$31,200** per year and at least **\$33,280** per year as of January 1, 2008 to be considered an exempt employee by a charter school.

Improper classification of an employee can result in severe financial consequences.

Before this legislation takes effect on January 1, 2007, charter schools should consider taking the following steps:

- 1) Review your wage and salary structure to identify any exempt employees who may fall below the new minimum and establish a plan for compliance;
- 2) Consider the impact of the changes on other employees in your organization as any increases in the pay scale could cause pressure on your entire compensation structure; and
- 3) Review all job descriptions or employment agreements to ensure those employees you believe are exempt are so designated.

If you should have any questions concerning this issue, please feel free to contact Jim Young (jyoung@smymlaw.com) or Chastin Pierman (cpierman@smymlaw.com) at the Law Offices of Spector, Middleton, Young & Minney, LLP at (916) 646-1400.

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