

“OH, NO! IT’S WAGE AND HOUR!”

***UNDERSTANDING THE
FAIR LABOR STANDARDS ACT OF 1938
OUTLINE***

by

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I. PURPOSE AND COVERAGE

- A. In General**
- B. Employees v. Independent Contractors**

II. MINIMUM WAGE

- A. Rate and Subminimum Exceptions**
 - 1. What is minimum wage?**
 - 2. Paying different rates of pay for different jobs**
 - 3. Agreements for wage reduction**
 - 4. Reducing employee wages without an agreement**
 - 5. Exceptions to the minimum wage requirement**
- B. Tipped Employees**
- C. Non-Cash Wages**

III. CHILD LABOR

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- A. Definition of Overtime**
- B. Exempt v. Nonexempt Employees**
- C. Standard Of Review, Burden Of Proof and Rule Of Construction For Determining Exempt Status**
- D. Bona Fide Executive Employee's Minimum Salary and Duties Test**
- E. Bona Fide Administrative Employee's Minimum Salary and Duties Test**
 - 1. Directly Related to Management or General Business Operations**
 - 2. Employer's Customers**
 - 3. Discretion and Independent Judgment**
 - 4. Matters of Significance**
- F. Bona Fide Professional Employee's Minimum Salary And Duties Test**
 - 1. Primary Duty**
 - 2. Work Requiring Advanced Knowledge**
 - 3. Field of Science or Learning**
 - 4. Customarily Acquired by a Prolonged Course of Specialized Intellectual Instruction**
 - 5. Practice of Law or Medicine**
 - 1. Invention, Imagination, Originality or Talent**
 - 2. Recognized Field of Artistic or Creative Endeavor**
 - 3. Teachers**
- G. Highly Compensated Employees**
- H. Computer Professional Test**
- I. Outside Sales Exemption**
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- K. The Salary Test**
- L. Public Sector Employees' Exemption To The Salary Test**
- M. Outside Sales, Teachers, Lawyers and Physicians**
- N. Family and Medical Leave Act ("FMLA") and the Salary Test**
- O. "Window of Correction" For Damages Under The Salary Test**

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- 7. Sleeping Time**
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- 9. Training Time**
- 10. Travel Time**
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- 12. Waiting Time**

B. Payments Made To Employees Which Need *Not* Be Included In Overtime Calculations

C. Premium Payments Made To Employees Which Need *Not* Be Included In Overtime Calculations *And* May Be Used To Offset Overtime Wages Paid For That Week

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- E. Calculating Payments To Employees Which May Be Used To Offset Overtime Wages Paid To Employees**
- F. Calculating Overtime Wages**
 - 1. Overtime Wage v. Overtime Hours Method**
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- A. Willful v. Nonwillful Violations**
- B. Liquidated Damages**
- C. Other Remedies**



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- The Human Resource Association of Central Ohio's Linda Kerns Award for Outstanding Creativity in the Field of Human Resource Management and the Ohio State Human Resource Council's David Prize for Creativity in Human Resource Management

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