

DOL Issues Opinion Letters on Administrative Exemption and Ministerial Exception

Law and the Workplace Blog on January 11, 2021

The U.S. Department of Labor's Wage and Hour Division (WHD) issued two new opinion letters on January 8, 2021, bringing the number of ["lame duck" wage and hour opinion letters](#)—issued since Election Day 2020—to six.

In [FLSA2021-1](#), WHD determined that account managers at a life sciences manufacturer qualify for the FLSA's administrative exemption. The account managers learn about the needs of potential clients, researching what company products would meet those needs, and communicating about how the company's products could best fulfill those needs. The employees act with autonomy, are not closely supervised, and are expected to independently develop account plans and strategies and make independent decisions in answering client questions. They determine how best to engage with potential clients and to create product solutions, including based on the analysis of information gleaned from the sales process. On these facts, WHD concluded that the account managers met the duties requirements for the administrative exemption.

In [FLSA2021-2](#), WHD concluded that a private religious preschool can pay its teachers on a salary basis that would otherwise not conform with the FLSA, provided the teachers qualify for the ministerial exception. The judicially-created exception (there is no mention of it in the FLSA)—based on the First Amendment's separation of church and state—exempts from FLSA coverage employees of religious institutions whose primary duties are ministerial in nature. There is no rigid formula for determining who qualifies for the exception, but an employee need not be ordained or have a particular job title to qualify. To the contrary, employees qualify based on their role in conveying the organization's message and carrying out its religious mission, a determination that must be made on a case-by-case basis. WHD notes that religious school teachers can qualify for the exception, and assuming that they do, the school may compensate them on a salary basis that would not otherwise comport with the FLSA.

Proskauer's [Wage and Hour Group](#) is comprised of seasoned litigators who regularly advise the world's leading companies to help them avoid, minimize, and manage exposure to wage and hour-related risk. Subscribe to our [wage and hour blog](#) to stay current on the latest developments.

[View Original](#)

[Related Professionals](#)

- **Allan S. Bloom**

Partner