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## **Exempt Employees and Administrative Leave**

**Is Ventura County denying employees overtime pay?** The 2015-2016 Ventura County Grand Jury received a complaint alleging the improper classification of certain Ventura County employees as “exempt” employees under the federal Fair Labor Standards Act of 1938 (FLSA). Additionally, the complaint alleged abuse of the County’s “Administrative Leave Policy” by some exempt employees. After opening an investigation, the Grand Jury read applicable portions of the FLSA, reviewed various websites intended to give employers guidance in correctly applying FLSA provisions, examined various County documents, and interviewed County personnel.

The majority of workers in the United States are covered by the FLSA. Under the Act, employees are classified as “non-exempt” or “exempt”. Non-exempt employees are entitled to overtime pay if they work more than 40 hours in a week. Exempt employees are not entitled to overtime pay no matter how many hours they work. Employees are automatically non-exempt unless they meet three specific criteria. Of these, the key criterion is job duties performed on a daily basis. Classifying employees as exempt exposes employers to substantial inherent risks if the classification is found to be incorrect. Even though 25% of all regular County employees are classified as exempt, the County’s Personnel Rules and Regulations manual does not explain the exempt and non-exempt classifications.

The County has a policy for exempt employees which allows for “Administrative Leave” – time off with pay – in addition to normal vacation and sick leave. “Satisfactory performance”, which is one of the criteria for granting Administrative Leave, is not clearly defined. Additionally, the



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application of the Administrative Leave policy is inconsistent across employee bargaining units.

The Grand Jury recommends that the Ventura County Board of Supervisors: include an explanation of the exempt and non-exempt classifications in the Personnel Rules and Regulations manual; define the level of performance required for granting Administrative Leave; take steps to ensure consistent application of the Administrative Leave policy; require a regular review of employee classifications; and require a study of the financial impact of having such a large number of exempt employees.

The complete report may be accessed at [www.ventura.org/grand-jury](http://www.ventura.org/grand-jury); click on the Annual Reports tab and consult "Fiscal Year 2015-2016."

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