

	<b>Procedure for Establishing or Changing Employment Category (Classified &amp; Exempt)</b>	<b>Responsible Administrative Unit:</b> Human Resources
	<b>Issued: May 6, 2003</b>  <b>Revised: August 10, 2011</b>	<b>Contact:</b> Associate Vice President, Human Resources mdougher@mines.edu

## 1.0 CHANGING OR ESTABLISHING NEW POSITION CATEGORIES

**Step 1:** Complete the [Exemption Request](#) Form. The supervisor (and department head if different from the supervisor) seeking to change the category of a position or seeking to establish the category of a newly created position, must fully describe the new position's duties and responsibilities and, for existing positions, explain why the change in employment category is being sought. This description also must specify how the position meets the requirements established in statute to be exempt (C.R.S. 24-50-135(1), *et seq.*).

**1.1** C.R.S. 24-50-135(1) states that “administrators employed in educational institutions ... shall be exempt from the state personnel system.”

**1.2** The statute defines “Administrators employed in educational institutions” to mean (there are other elements to the definition, but these do not apply at CSM):

- a. Officers and their executive assistants;
- b. Employees in professional positions, including the professional employees of a governing board;
- c. Any other employees involved in the direct delivery of academic curriculum; and
- d. Employees funded by grants or gifts.

**1.3** To be a professional position, the position must qualify to be exempt from the federal Fair Labor Standards Act (FLSA). Any position that is eligible to be paid overtime is not exempt from the FLSA. A position is a professional position if the position involves the exercise of discretion, analytical skill, judgment, personal accountability, and responsibility for creating, developing, integrating, applying, or sharing an organized body of knowledge that characteristically is:

- a. Acquired through education or training that meets the requirements for a bachelor's or graduate degree or equivalent specialized experience; and
- b. Continuously studied to explore, extend, and use additional discoveries, interpretations, and applications and to improve data, materials, equipment, applications, and methods.

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**1.4** No position can be made exempt from the State Personnel System while it is held by a Classified employee.

**1.5** The results of decisions to exempt a position from the State Personnel System are subject to audit by the Office of the State Auditor.

**Step 2:** In addition to being endorsed and supported by the department or division head or administrative department director, all requests to change the category of a position must be endorsed and supported by area Vice President or Provost prior to being submitted to the President and prior to being reviewed in Human Resources. At any level, if the position is not endorsed and supported, the process ends subject to Section 2.0 below.


**Step 3:** If the President supports the request to establish or change the position’s category, he or she will endorse the request and forward it to Human Resources. At this stage, the President’s endorsement is not a decision with respect to the exemption; it is only an agreement by the President that the position may be considered for exemption. If the President does not support the request, he or she will return it to the Vice President from whom the request came, and the process ends.

**Step 4:** For those positions forwarded by the President, the Associate Vice President for Human Resources will make a recommendation of exemption in accordance with the controlling statute and will communicate this recommendation to the President.

**Step 5:** The President will make the final decision regarding the exemption and will communicate his or her decision to the Associate Vice President for Human Resources who will, in turn, communicate the decision to the requesting department and the area Vice President or Provost.

**2.0 SALARY ACTIONS AND RECORDS**

Salary determinations for individuals hired, appointed, transferred or promoted to the exempt position will be made in accordance with [Salary Administration](#) procedures in effect at the time the exemption is approved.

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The Human Resources Office will maintain such records of exemption decisions and provide such reports as are required from time to time by DPA.

### **3.0 APPEALS**

The decision not to support an exemption request may be appealed only if the appeal has a statutory basis. This means that if the appealing individual believes that the decision not to proceed with an exemption request is contrary to the requirements of statute, an appeal can be filed. This is the only basis for appeal. If an appeal is desired, it must be filed in writing with the Associate Vice President for Human Resources.

If a position has been reviewed and determined not to be exempt from the State Personnel System by the President, that final decision cannot be appealed.