FLSA & SCHOOL DISTRICTS

37th Annual School Law Conference
February 17-18, 2022

Ann Manning
* Board Certified in Labor and Employment Law
Underwood Law Firm
www.uwlaw.com

FLSA: One wicked, complex statute

- Damages
  - Two-year look back
    - Doubled damages
  - Three-year look back for willful violations
  - Attorney's fees if Employee sues
  - The DOL can also sue the District
  - Criminal and individual liability

DOL SHIFTS

- Insisting on liquidated/double damages
- Refusal to approve settlements on self-audit, full investigation required
- Referral of suits to plaintiffs' lawyers via 800-number hotline

CASE #1

Our Assistant to the Superintendent is exempt – she's salaried!

Present Salary Test

- Earn less than $35,568
  - Always entitled to overtime
- Earn $35,568-$107,431
  - At least $684 per week
- Earn $107,432 or more
  - Not entitled to overtime if they perform *any* exempt duties
- SALARY TEST DOES NOT APPLY TO TEACHERS

Misclassification of Exempt/Non-Exempt

- Text is not whether paid by salary or their job title
- Real test
  - The nature of the job
  - What the employee does

UT LAW CLE THE UNIVERSITY OF TEXAS TEXASLAW

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the UT Law CLE eLibrary (utcle.org/elibrary)

Title search: The FLSA and School Districts

First appeared as part of the conference materials for the
37th Annual School Law Conference session
"The FLSA and School Districts"