



## ADMINISTRATIVE MEMORANDUM

### COUNTY OF SAN MATEO

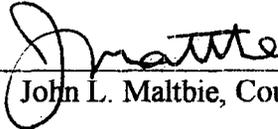
NUMBER: E-15

DATE: February 22, 2002

**SUBJECT:** Disciplinary Action and the Fair Labor Standards Act

**RESPONSIBLE DEPARTMENT:** Employee and Public Services

**APPROVED:**

  
John L. Maltbie, County Manager

#### Background

The Fair Labor Standards Act (FLSA) provides for certain policies and practices in relation to overtime payment for employees. Under the Act, employees are either covered or exempt based on the nature of their work, duties and responsibilities, assignments and related job factors. Employees covered under FLSA must receive overtime pay and exempt employees receive a compensation as determined by the County.

All County classifications have been assessed and allocated to either covered or exempt status relative to the Act. Classifications are periodically reviewed to verify that any exempt classifications continue to meet the terms of the Act. Covered or exempt status is an evolving condition that needs to be regularly reviewed.

#### Discussion

In a recent ruling, the federal courts have determined that in order to maintain an employee's exempt status, an employer cannot have a policy or practice that reduces or permits the reduction of an exempt employee's pay for other than full-week increments for disciplinary reasons except for violation of a safety rule of major significance.

In order to assure that the County continues to comply with the provisions of the FLSA, it shall be the policy of the County that if any employee exempt under FLSA is suspended without pay, such suspension must be in increments of one week.

This does not apply to the discipline under non-punitive disciplinary program, since such disciplinary actions have no impact on the salary of the disciplined employee.