

1.5 Designation of Status of New Exempt Position

- a. The following criteria will be used to determine if a position is exempt. A position shall be designated as exempt if any one of the following criteria is met.

Criterion 1. The position requires supervision of other employees and the employee has authority to hire, promote, discipline or terminate employees, or has substantial weight given to his/her recommendations regarding decisions to hire, promote, discipline, or terminate employees.

Criterion 2. The position requires work that is confidential because the work directly involves the formation of policies and resource allocations related to collective bargaining.

Criterion 3. The position's primary duty requires work that regularly and customarily involves the use of employee discretion and independent judgment with respect to matters of significance that are directly related to management policies of the District or to the general business operations of the District.

- b. Given the parties' desire to avoid the litigation of issues involving criteria 1 and 2, and the long- term prior understanding between the parties of the application of the Public Employees Relations Act (PERA) to those criteria, PERA applies to the application of criteria 1 and 2.

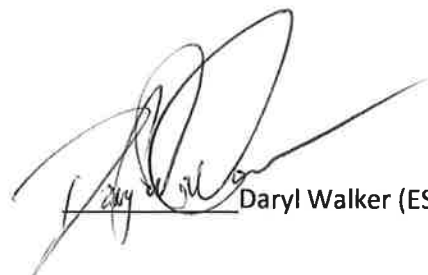
The Fair Labor Standards Act (FLSA) applies to the application of criterion 3.

These criteria are to be narrowly construed.

- c. If the ESSA disputes the decision of the District, it shall so advise the District in writing within ten (10) work days, stating the reasons for the dispute. The District shall meet with the ESSA within ten (10) work days of receipt of the notice by the ESSA. If a dispute still exists after the meeting between the District and the ESSA, the ESSA may submit the matter to binding arbitration within fifteen (15) work days of the meeting.



Ivory McDaniel (District)



Daryl Walker (ESSA)