

23 Professional employee

Section 7103(a)(15) of the Statute defines a professional employee as:

- (A) an employee engaged in the performance of work--
 - (i) requiring knowledge of an advance type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital (as distinguished from knowledge acquired by a general academic education, or from an apprenticeship, or from training in the performance of routine mental, manual, mechanical, or physical activities;
 - (ii) requiring the consistent exercise of discretion and judgment in its performance;
 - (iii) which is predominately intellectual and varied in character (as distinguished from routine mental, manual, mechanical, or physical work; and
 - (iv) which is of such character that the output produced or the result accomplished by such work cannot be standardized in relation to a given period of time; or
- B) an employee who has completed the course of specialized intellectual instruction and study described in subparagraph (A)(i) of this paragraph and is performing related work under appropriate direction or guidance to qualify the employee as a professional employee described in subparagraph (A) of this paragraph.

The Authority noted in *United States Attorneys Office for the District of Columbia*, 37 FLRA 1077, 1081 to 1083 (1990) that consistent with the definition in section 7103(a)(15), a college degree is not always required for an employee to be a “professional” under the Statute. Therefore, it is imperative that the region’s decision cite or discuss specific evidence on which the decision is relied and reference the complete statutory standards. In other words, identify the evidence as it relates to each

statutory standard. See *U.S. Department of the Army, Wilmington District, Corps of Engineers, Wilmington, North Carolina*, unnumbered Order Denying Application for Review in Case No. AT-RP-80059, (1999) at 3 (unnumbered footnote).

The effect of finding employees are professionals is significant. Professionals have the right of unit self-determination under section 7112(b)(5). That is, professionals vote not only on whether they wish to be represented by a union in a bargaining unit, but also on whether the bargaining unit will consist solely of professional employees or be a combined professional/nonprofessional unit. In making determinations as to professional status, it is particularly important to focus on the educational requirements of the position, not merely on the credentials or certifications the individual employee may possess. For procedures to follow in elections involving professional employees, see *CHM 28*.

See HOG 59 for specific guidance about this topic at hearing.

Other references:

Veterans Administration Regional Office, Portland, Oregon, 9 FLRA 804 (1982).