

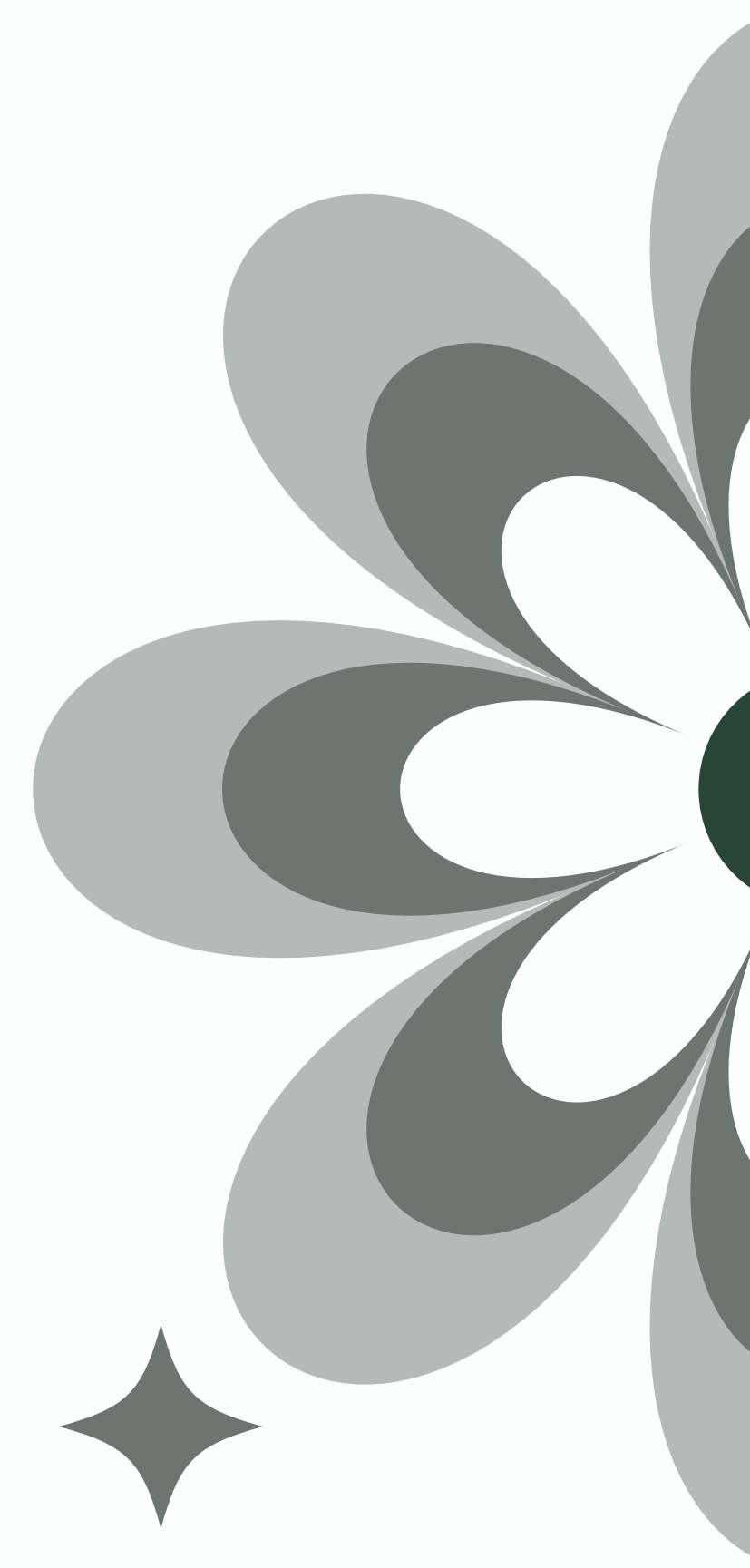
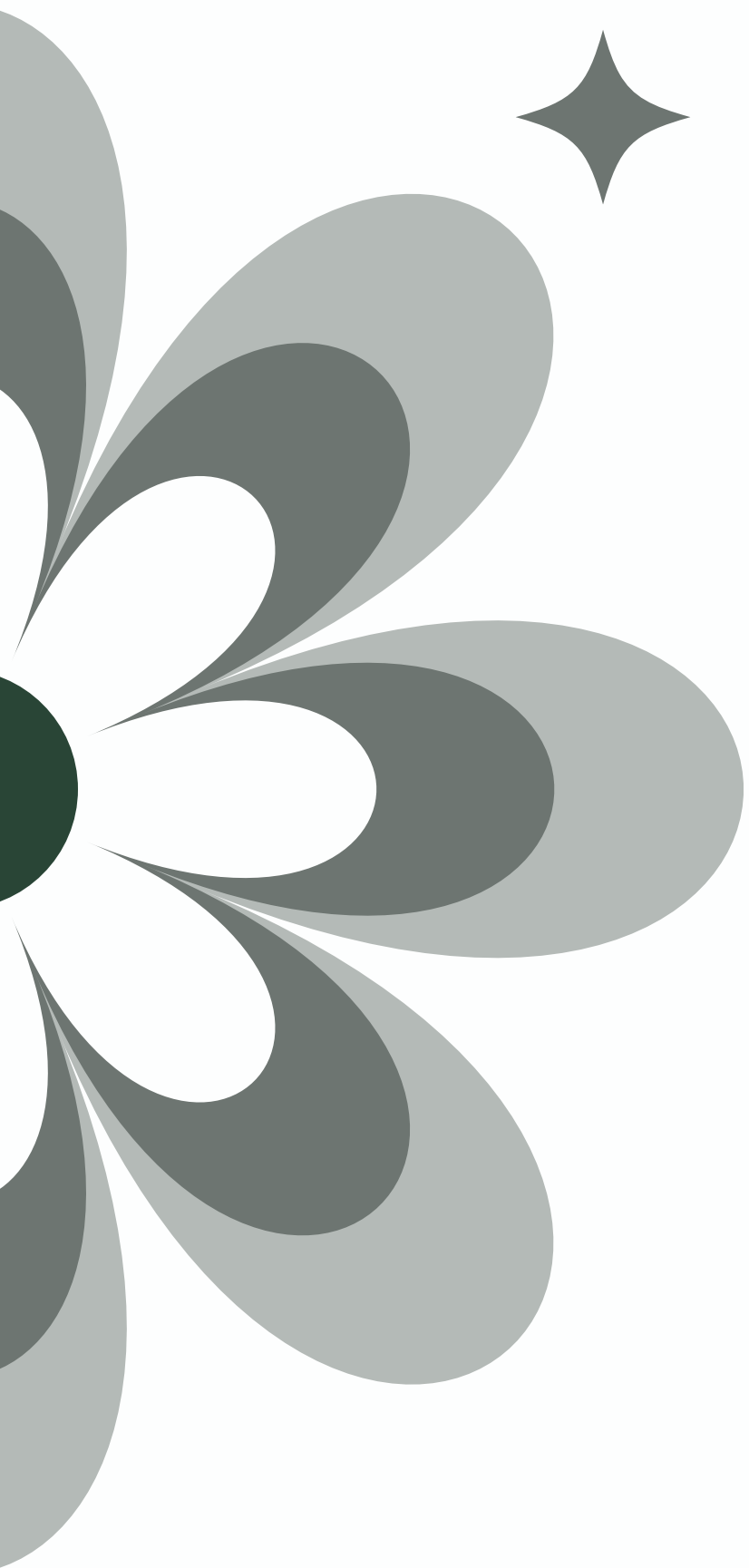
Teachers are



# EXEMPT EMPLOYEES

Do you know what this means?

# FAIR LABOR STANDARDS ACT




1967 was the year teachers were first excluded from the FLSA protections. This teacher exclusion has educators lumped in with doctors and lawyers as the only professionals who are categorically excluded.



# DEPARTMENT OF LABOR DEFINITION OF TEACHERS

## Teachers

Teachers are exempt if their primary duty is teaching, tutoring, instructing or lecturing in the activity of imparting knowledge, and if they are employed and engaged in this activity as a teacher in an educational establishment. Exempt teachers include, but are not limited to, regular academic teachers; kindergarten or nursery school teachers; teachers of gifted or disabled children; teachers of skilled and semi-skilled trades and occupations; teachers engaged in automobile driving instruction; aircraft flight instructors; home economics teachers; and vocal or instrument music teachers. The salary and salary basis requirements do not apply to bona fide teachers. Having a primary duty of teaching, tutoring, instructing or lecturing in the activity of imparting knowledge includes, by its very nature, exercising discretion and judgment.



**FACT SHEET 17 D**

# WHAT ARE TEACHERS EXEMPT FROM?

Teachers are excluded from the protections of the Fair Labor Standards Act which protects [the right to fair pay](#):

The Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay, recordkeeping, and child labor standards affecting most full-time and part-time workers in the private sector and in federal, state, and local governments.

# GENERALLY THREE REQUIREMENTS MUST BE MET TO BE EXEMPT FROM FLSA:

To qualify for a learned professional exemption, an employee must satisfy three tests:

The employee must be paid on a salary basis that is not subject to reduction based on the quality or quantity of work (the "salary basis test"), rather than, for example, on an hourly basis;

The employee must receive a salary at a rate not less than \$684\* per week (the "salary level test"); and

The employee's primary duty must involve the kind of work associated with the exempt status sought, such as executive, administrative, or professional work (the "duties test").

# Contract Hours?

Why do we have contract hours if we are exempt?

Supervision of students is one of the essential functions of your job, so hours at the start and end of the day are there to ensure students are supervised. These are the hours you must be present at school except for your duty-free lunch. You are still expected to get the job done even if it can't be done within your contracted hours. Which is recognized as unfair by many groups including the Economic Policy Institute. Their argument for overtime pay for teachers can be found here:

**Economic  
Policy  
Institute**



# WHAT CAN BE DONE ABOUT TEACHERS' EXEMPT STATUS?

Since this exempt status is a federal regulation, NEA is calling on the US Department of Labor to rescind this exemption. You can read what they are doing here:



## **NEA Calls for an End to Unjust Teacher Pay Regulation**

An archaic and outdated federal regulation is excluding teachers from critical wage and hour protections, resulting in more than one million classroom teachers being significantly underpaid.

What can we do about it? Stay engaged with our state legislators and make them aware of this unfair labor practice and ask for more money on the WPU. With more money on the WPU school districts could pay their employees according to the work they do.

