



May 1, 2025

### **When May an Employer Dock an Exempt Employee's Pay as a Disciplinary Measure?**

An employer's docking the pay of a salaried, exempt employee may raise questions as to whether the employer is indeed paying the employee on a salary basis as opposed to paying the employee based on the quantity or quality of work performed. In this, the second part in a two-part series, we'll address employer pay docking of salaried exempt employee pay as a disciplinary or performance measure. In [Part One](#), we discussed when employers can dock the pay of salaried exempt employees related to absence and attendance issues.

Under federal law, the following general rules apply to docking the pay of exempt employees as a disciplinary measures, but employers should also confirm with counsel that no state laws deviate from these principles:

1. If the employee owes the employer money for a pay advance or loan, that may be docked from the employee's pay. In several states, this type of pay docking may only occur with the employee's written permission. An employer should require the employee to sign a note authorizing the employer to make reductions from the employee's salary to pay off the debt.
2. Normally, damage for wear and tear to equipment or even loss of equipment may not be deducted from exempt employee pay.
3. What if the employee is terminated or resigns and does not return employer property—laptop, cell phone, etc.? As a general rule, the employer may dock the exempt employee's final paycheck for the fair value of the unreturned items, up to the equivalent of minimum wage for their time worked in the final week. Note, however, that some states only permit this docking of pay if the employee provides written authorization at the time the pay is to be reduced.
4. Deductions to an exempt employee's pay may not be made as a disciplinary measure, other than for violating safety rules of major significance or as a result of an unpaid suspension for serious misconduct enshrined in a written policy (sexual harassment, workplace violence, drug violations). Otherwise, the employer can only effect a loss of pay as a disciplinary measure when suspending an exempt employee without pay for a full workweek, and oftentimes this is the better practice, even when addressing the violation of safety rules of major significance or handing down an unpaid suspension for serious misconduct.

Employers should review their policies to ensure no provisions suggest employee pay reductions may be taken from exempt employees for disciplinary or performance reasons in ways that violate these principles or other applicable laws. A mistaken pay docking decision may lead to a more costly issue than just the amount of pay that was docked.

If you have any questions or would like additional information, please contact Richard Lehr at 205-323-9260 or [rlehr@lehrmiddlebrooks.com](mailto:rlehr@lehrmiddlebrooks.com).