



ADMINISTRATIVE POLICY

STATE OF WASHINGTON DEPARTMENT OF LABOR AND INDUSTRIES EMPLOYMENT STANDARDS

TITLE: GENERAL INFORMATION APPLICABLE TO EXEMPTIONS FROM MINIMUM WAGE ACT FOR WHITE-COLLAR WORKERS

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**CHAPTER: [RCW 49.46.010\(3\)\(c\)](#),
[RCW 49.46.130\(2\)\(a\)](#),
[WAC 296-128-500 – 545](#)**

**SEE ALSO: [ES.A.8.1](#),
[ES.A.8.2](#), [ES.A.9.1](#),
[ES.A.9.3-9](#), [ES.A.10.1](#),
[ES.A.10.2](#) and [ES.A.10.3](#)**

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This policy is designed to provide general information in regard to the current opinions of the Department of Labor & Industries on the subject matter covered. This policy is intended as a guide in the interpretation and application of the relevant statutes, regulations, and policies, and may not be applicable to all situations. This policy does not replace applicable RCW or WAC standards. If additional clarification is required, the Program Manager for Employment Standards should be consulted.

This document is effective as of the date of print and supersedes all previous interpretations and guidelines. Changes may occur after the date of print due to subsequent legislation, administrative rule, or judicial proceedings. The user is encouraged to notify the Program Manager to provide or receive updated information. This document will remain in effect until rescinded, modified, or withdrawn by the Director or his or her designee.

The administrative policies for the white-collar exemptions have been separated into individual policies and are identified by the following numbers.

ES.A.9.1	Salary Basis
ES.A.9.3	Executive
ES.A.9.4	Administrative
ES.A.9.5	Professional
ES.A.9.6	Computer Professional
ES.A.9.7	Outside Sales
ES.A.9.8	Definition of Fee Basis
ES.A.9.9	Salary Thresholds

GENERAL APPLICATION

1. Washington State and the U.S. Department of Labor have separate regulations for the “white collar” exemptions, including executive, administrative, professional, computer professional, and outside sales positions.

Employers must comply with both state and federal regulations. Where differences exist between Washington state and federal regulations, an employer must follow the regulation that is most favorable to the worker. For more specific information on federal regulations, see CFR Title 29. Check with the U.S. Department of Labor at their toll free # 1-866-487-9243 or on their [website](#), or with a qualified consultant, to determine how federal overtime requirements apply in specific circumstances.

Washington State overtime rules are similar to federal executive, administrative, professional, computer professional, and outside sales exemptions in many ways, but there are some areas where state and federal requirements differ.

One key difference between state and federal regulations is the difference in the salary threshold levels. The state salary threshold is set as a multiplier of the state minimum wage. When fully phased-in, the salary threshold will be 2.5 times the state minimum wage for a 40-hour workweek. See Administrative Policy [ES.A.9.9](#), “Salary Thresholds,” for more information about the salary threshold phase-in schedule. The federal salary threshold is currently \$684 per week (\$35,568 annualized).

The federal regulations also specify that office and non-manual workers can be exempt from overtime pay if they earn more than \$107,432 per year and perform at least one executive, administrative, or professional duty. State regulations do not contain a similar provision. Executive, administrative, and professional workers must meet all of the state requirements for the exemptions to apply.

Each of the administrative policies on these exemptions summarize differences in the state and federal regulations.

2. Reliance on Federal Interpretation. The state and federal “white collar” exemption regulations have many identical parts. The Department intends to rely on the interpretations of the 2019 federal regulations where the two are identical.

3. Employees working in bona fide executive, administrative, professional, computer professional, and outside sales capacities are exempt from the Minimum Wage Act, RCW 49.46, and its provisions.

4. Exemption from Minimum Wage Act Protections for Certain Types of Employees ([RCW 49.46.010 \(3\)\(c\)](#)). [RCW 49.46.010\(3\)\(c\)](#) exempts individuals employed in “a bona fide executive, administrative or professional capacity” or in the capacity of “outside salesperson” from the protections of the MWA, including the rights to be paid at least minimum wage, earn overtime pay, receive paid sick leave, receive their earned tips and service charges, and be protected from retaliation.

The statute does not define the terms “executive, administrative, professional,” or “outside salesperson” but delegates that authority to the Department, which defines the terms through rulemaking. The Department’s rules defining the above terms and providing guidance about their application are found at [WAC 296-128-500](#), [-505](#), [-510](#), [-520](#), [-530](#), [-532](#), [-533](#), [-535](#), [-545](#).

5. General Considerations When Determining Whether an Employee is Exempt from the Minimum Wage Act as an Executive, Administrative, Professional, Computer Professional, or Outside Sales Employee. Employers are not required to claim these

exemptions. They may pay minimum wage and overtime and provide the other protections of the MWA to all of their employees. Employers may choose to claim the exemptions. If they do, it is their burden to demonstrate that a particular exemption applies. Exemptions to the wage and hour laws are narrowly construed. Employers should carefully check the requirements of an exemption before applying it.

A title or job description alone is not sufficient to meet the requirements of the exemptions. Whether an exemption applies is determined by the employee's actual job duties performed and on the actual payment on a salary (or fee, if applicable) basis of an amount equal to or greater than the minimum salary threshold requirements. Should an exempt worker's duties or pay method change during their employment so that the worker no longer meets an exemption's criteria, the worker would no longer be exempt and all MWA provisions would apply from the date the criteria were no longer met.

In addition to "duties" requirements, in order to qualify for exemption from the MWA, most executive, administrative, and professional employees must be compensated on a "salary basis" that is equal to or greater than the minimum weekly salary threshold requirements listed in the Department's rules. If the employee is not paid weekly, the salary must equal the weekly equivalent. A salary must be a true salary, not a mere "ruse" while treating the employee as an hourly worker. For instance, it cannot usually be reduced for working fewer hours. See Administrative Policy [ES.A.9.1](#), "Salary Basis," for Questions and Answers About Salary Basis Regulation; [WAC 296-128-532](#) and [WAC 296-128-533](#) for guidance on salary basis and permitted deductions. The salary basis requirements apply to executive, administrative, and professional workers and to salaried computer professional workers.

Federal overtime regulations allow employers to use nondiscretionary bonuses and incentive payments (including commissions) to satisfy up to 10% of the federal salary threshold. State rules do not count these types of compensation towards the exemption requirements. Bonuses, commissions, and benefits are not salaries and therefore do not count towards the state salary threshold requirements.

Each exemption has several requirements. All of the applicable requirements of the particular exemption must be met for the exemption to apply. Meeting one or two requirements does not fulfill the exemption. No exemption applies if an employee meets some requirements from several different exemptions, but does not meet all of the requirements for any one, particular exemption.

Application of an exemption is always determined on a case-by-case basis, depending on the relevant facts for that specific employee.

If the requirements of a particular exemption are not met, employees are entitled to the payment of at least minimum wage and overtime for hours worked in excess of forty per week, regardless whether they are paid on a salary, hourly, or other basis. Non-exempt employees are also entitled to all other MWA rights, including sick leave, regardless of how they are paid.

6. See [ES.A.8.1](#), "Overtime," and [ES.A.8.2](#), "How to Calculate Overtime," for specific examples of how to calculate overtime when an exemption is not met.