

This fact sheet has three examples of employees who would likely meet or not meet the executive Minimum Wage Act exemption requirements. These examples are provided for illustrative purposes only. If other information is presented throughout the course of an investigation, an employee's exemption status determination could change.

Executive exemption (Manager)

Example 1

Jane is a general manager for a shipping company of 64 employees and believes she has been misclassified as an overtime-exempt employee.

Her employer pays her a monthly salary of \$5,000 to supervise a warehouse team of 10 people. Her work also includes ordering merchandise, handling customer complaints, authorizing payments of bills and other duties as the day-to-day operations require.

She feels like she has been taken advantage of by some of the warehouse workers and has often times had to fill in to do their work that they missed. She has frequently had to discipline two of the workers, Joe and Jack, for coming in late to work without reason and sleeping on the job. As a result, Joe and Jack have been put on suspension and she has had to "pick up the slack" for the lack of bodies. For the last month, she has had to work up 60-hour weeks to make up for the short staffing.

Jane feels like she deserves to get overtime pay for having to do some of these non-exempt production duties on top of her managerial tasks. She filed a Worker's Rights complaint for the overtime hours she worked in January-March 2021.

Case analysis

1. Is the employee's primary duty managing the enterprise, or managing a customarily recognized department or subdivision of the enterprise?

Yes. While Jane does perform some non-exempt duties in production, she is also supervising other employees, directing the work of warehouse and delivery employees, ordering merchandise, handling customer complaints and performing other management duties. Therefore, she would likely be considered to have management as her primary duty.

2. Does the employee customarily and regularly direct the work of at least two or more other full-time employees or their equivalent?

Yes. Jane regularly supervises 10 workers on the warehouse team.

3. Does the employee have the authority to hire or fire other employees, or are the employee's suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees given particular weight?

Yes. Jane has the authority to discipline employees, which has led to two employees being suspended.

4. Is the employee paid on a salary basis equal to or greater than the required salary threshold?

Yes. Jane is paid a monthly salary of \$5,000. Since the employer has more than 50 employees, the state salary threshold is \$958.30 per week in 2021. Jane has a calculated weekly salary of \$1,153.85, which is more than the projected required salary threshold.

Probable finding

Based on the information above, Jane likely meets the requirements to be classified as an exempt executive employee. If other information is presented throughout the course of an investigation, an employee's exemption status determination could change.

Executive exemption (Manager)

Example 2

Sara was recently promoted to shift supervisor position for Fashion Nova clothing store. There are six part-time employees and three full-time employees working at the store. She makes a salary of \$3,000 a month in her new position, which is not much more than what she made before. In fact, a lot of the work that she is doing now, like helping customers and arranging merchandise, is what she used to do in her previous position.

She asked her manager why she is exempt and was told that her title is “Shift Supervisor” and all supervisors are considered exempt. On most shifts, Sara supervises two part-time employees and tells them what section to work in for the day and when to go on their breaks. One of the employees she supervises is constantly on her phone instead of helping customers. Sara has talked to her about this on various occasions but only gets a “not-to-subtle” eye roll as a response. Sara brought this to the attention of her manager, but that was weeks ago but she didn’t seem to care and nothing ever changed. Some shifts she even works with another shift supervisor who often times tells her what to do.

She is confused because she is unsure of what her rights are, but every time she tries to talk to her manager about it, her manager just reminds her how lucky she was to get her promotion. She has decided to submit a wage complaint through L&I so she can get paid for overtime she worked in September-November 2020.

Case analysis

1. Is the employee’s primary duty managing the enterprise, or managing a customarily recognized department or subdivision of the enterprise?

No. Since Sara primarily performs the same routine duties as nonexempt employees, she likely does not meet the primary duty requirement. Because Sara spends substantially more time and effort performing the same work as the rest of the crew than performing supervisory functions, the exemption would likely not apply.

2. Does the employee customarily and regularly direct the work of at least two or more other full-time employees or their equivalent?

No. Sara usually supervises only two part-time employees, which does not satisfy this requirement.

3. Does the employee have the authority to hire or fire other employees, or are the employee’s suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees given particular weight?

No. Although Sara has mentioned her concerns about an employee’s work performance to her manager, these concerns did not lead to any disciplinary actions and her recommendations were not given particular weight.

4. Is the employee paid on a salary basis equal to or greater than the required salary threshold?

Yes. Sara is paid a monthly salary of \$3,000. Since the employer has less than 51 employees, the applicable state salary threshold is \$675 (starting July 1) and the federal threshold is \$684 per week in 2020. Sara has a calculated weekly salary of \$692.31, which is more than the required salary threshold amounts.

Probable finding

Based on the information above, Sara does not likely meet the requirements to be classified as an exempt executive employee. If other information is presented throughout the course of an investigation, an employee’s exemption status determination could change.

Executive exemption (Business owner)

Example

Jeff owns a roofing company and is looking to expand his business. His friend, Todd, has a lot of experience in the field and has his degree in business. Jeff proposes a joint business venture to Todd to be 25 percent co-owner of his company and help him out with the day-to-day management.

Todd is hesitant to agree because he lives so far from the main office but he reluctantly accepts Jeff's offer and soon moves to be closer to work after signing a business agreement granting him 25 percent ownership of the company. Todd starts working in August 2020, on job tasks such as managing the business revenue, scheduling projects, and paying employees.

He later notices that his paycheck is less than he anticipated and he did not receive any overtime pay. When he asks Jeff about it, he responds, "You are my business partner so you don't get overtime." After a heated discussion, Todd tells Jeff that he is going to file a complaint with L&I for him trying to pull one over on him. His complaint is for August-October 2020.

Case analysis

1. Does the individual own at least 20 percent equity interest in the business?

Yes. Todd verifies in his business agreement that he owns 25 percent equity as a part owner of the company.

2. Is the individual actively involved in managing the business?

Yes. Todd is actively involved in management duties such as managing the business' revenue, scheduling projects and making work schedules for employees.

Probable finding

Based on the information above, Todd likely meets the requirements to be classified as an exempt business owner. As a reminder, there are no salary basis or salary threshold requirements for bona fide business owners. If other information is presented throughout the course of an investigation, an employee's exemption status determination could change.