



ADMINISTRATIVE POLICY

STATE OF WASHINGTON DEPARTMENT OF LABOR AND INDUSTRIES EMPLOYMENT STANDARDS

TITLE: EXEMPTION FROM MINIMUM
WAGE ACT
REQUIREMENTS FOR
ADMINISTRATIVE EMPLOYEES

NUMBER: ES.A.9.4

ISSUED: 6/24/2005

REVISED: 6/26/2020

CHAPTER: [RCW 49.46.010\(3\)\(c\)](#),
[RCW 49.46.130\(2\)\(a\)](#),
[WAC 296-128-520](#)

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

ADMINISTRATIVE POLICY DISCLAIMER

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 This document will remain in effect until rescinded, modified, or withdrawn by the Director or his or her designee.

ADMINISTRATIVE ([WAC 296-128-520](#))

This policy provides information on the administrative exemption from minimum wage, overtime pay, and other employment protections under the Minimum Wage Act. Most workers in Washington are required by law to be paid at least minimum wage, earn overtime pay, receive paid sick leave, receive earned tips and service charges, and be protected from retaliation. However, state regulations provide an exemption from these requirements for workers employed as bona fide executive, administrative, professional, computer professional, and outside sales employees. This policy describes the specific administrative exemption requirements. To qualify for an exemption, employees generally must meet certain tests regarding their job duties and be paid on a salary basis at a minimum specified salary level. Job titles and job descriptions do not determine exempt status. In order for an exemption to apply, an employee's actual job duties and salary level must meet all of the requirements of the state regulations. Employees are not exempt if they perform a combination of some duties from one exemption and some from another, but do not meet all the qualifications for any one, specific exemption.

There are also federal rules pertaining to minimum wage and overtime pay exemptions for bona fide executive, administrative, professional, computer professional, and outside sales employees. 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.

The following information is designed to provide a summary of the requirements of both state and federal regulations for the administrative exemption. 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.

1. Administrative Job Duties Requirements.

To qualify for the administrative exemption, all of the following tests must be met:

- 1) The employee's primary duty must be the performance of office or nonmanual work directly related to the management or general business operations of the employer or the employer's customers;
- 2) The employee's primary duty must include the exercise of discretion and independent judgement with respect to matters of significance; and
- 3) The employee must be paid on a salary or fee basis equal to or greater than the required salary threshold.

2. Salary Threshold Requirements.

To meet the state exemption requirements, the employee must meet the duties test requirements and must be paid on a salary or fee basis equal to or greater than 2.5 times the state minimum wage for a 40-hour workweek (after an eight-year phase-in concluding in 2028). See Administrative Policy [ES.A.9.9](#) for more information about the salary threshold phase-in schedule. "Salary basis" is explained further in Administrative Policy [ES.A.9.1](#), and "fee basis" is addressed in Administrative Policy [ES.A.9.8](#).

To meet federal requirements, the employee must meet the duties test requirements and must be compensated on a salary or fee basis at a rate not less than that specified in the federal regulations, which is currently \$684 per week.

When the state and federal thresholds are different, workers who meet the federal exemption may not qualify as exempt under state law, or vice versa. Employers should carefully consider both sets of requirements when analyzing worker exemptions.

3. Academic administrator exemption.

Workers can also meet the administrative exemption if they are academic administrators. Academic administrators are employees whose primary duty is performing administrative functions directly related to academic instruction or training in an educational establishment. These employees must be compensated on a salary or fee basis at a rate not less than the minimum salary threshold requirements, or alternatively may be compensated on a salary basis that is at least equal to the entrance salary for teachers in the same educational establishment.

Academic administrative functions include operations directly in the field of education, and do not include jobs relating to areas outside the educational field (such as building management,

maintenance, or student health). Employees engaged in academic administrative functions include:

- The superintendent or other head of an elementary or secondary school system, and any assistants responsible for administration of such matters as curriculum, quality and methods of instructing, measuring and testing the learning potential and achievement of students, establishing and maintaining academic and grading standards, and other aspects of the teaching program;
- The principal and any vice-principals responsible for the operation of an elementary or secondary school;
- Department heads in institutions of higher education responsible for the various subject matter departments; and
- Academic counselors and other employees with similar responsibilities.

The exemption also requires that workers exercise discretion and independent judgment with respect to matters of significance, but most academic administrators subject to this exemption naturally meet that requirement.

4. Differences Between State and Federal Regulations.

The Department intends to rely on the interpretations of the 2019 federal regulations where the regulations are identical to the Department's rules. However, there are some areas where state and federal requirements differ.

Federal regulations provide that executive, administrative, or professional workers can also be exempt from overtime pay if they earn more than \$107,432 per year and they perform at least one executive, administrative, or professional duty. These employees are often referred to as "highly compensated employees." State regulations do not contain this provision. Administrative workers must meet all of the duties requirements for the state exemption to apply.

Federal regulations also allow an employer to impose *unpaid* disciplinary suspensions of *one or more full days* for workplace-conduct rule infractions for exempt workers, without affecting the exemption. Washington State allows an *unpaid* disciplinary suspension of exempt employees in increments of less than one week *only* for violations of safety rules of major significance. If an unpaid disciplinary suspension is for a non-major safety violation, it may only be in a full-week increment or it will destroy the employee's state exemption for that period. Employers can impose *paid* disciplinary suspensions in any increment without affecting the employee's exemption. See [WAC 296-128-532](#) for more information about deductions for salaried, exempt employees.

5. How to Determine Primary Duty.

An exempt administrative employee must have a primary duty of office or nonmanual work directly related to the management policies or general business operations of the employer or the employer's customers, or, in the case of academic administrative personnel, the employee's primary duty must be work that is directly related to academic administration or general academic operations of the school or school system where the employee works. Section 8 below discusses what work qualifies as office or nonmanual work directly related to management policies or general business operations.

"Primary duty" means the principal, main, major, or most important duty that the employee performs. A determination of whether administrative work is a worker's primary duty must be

based on all the facts in a particular case. It is the employer's burden to demonstrate that an employee meets the primary duty requirements.

The amount of time spent performing exempt-type administrative duties can be a useful guide in determining whether administration is the primary duty of an employee. A good rule of thumb is that administration is probably the employee's primary duty if the employee spends more than 50 percent of the employee's time performing exempt-type administrative duties.

Time alone, however, is not the sole test. An employee may still have administration as a primary duty even if the employee does not regularly spend over 50 percent of the employee's time performing exempt-type administrative duties, if other relevant factors support that conclusion. Some of these other factors include the relative importance of the exempt-type administrative duties (compared to the other types of duties performed), the frequency with which the employee exercises discretionary (decision-making) powers, the employee's relative freedom from supervision, and the relationship between the employee's salary and the wages paid to other employees who perform the same kind of nonexempt work as the potentially-exempt employee in question.

6. Types of Administrative Employees.

The administrative exemption is intended to cover certain white-collar workers who perform specific types of office or nonmanual work. Clerical staff performing routine clerical duties as their major function, regardless of the amount of discretion they have as to how those duties are performed, are not performing work of substantial importance to the management or operation of the business. Three general types of employees qualify for the exemption as administrative employees, if they meet the job duties and salary level requirements: executive and administrative assistants, staff employees, and those employees who perform special administrative assignments for their employers. The list below illustrates the types of administrative professions that often fall into each category, rather than providing an exhaustive list, and each case must be examined individually to determine whether the job duties test is met:

6.1 Executive and Administrative Assistants. The first type of administrative employee is an assistant to a proprietor, to an executive, or to another administrative employee. These employees generally provide high-level assistance to executives and similar employees with the performance of the supervising executive's duties, without themselves having executive authority. These employees are not primarily tasked with routine clerical duties such as those described in Section 11. Typical titles of employees in this group are: executive assistant to the president, confidential assistant, executive secretary, assistant to the general manager, administrative assistant, and, in retail or service establishments, assistant manager and assistant buyer.

Generally speaking, such assistants are found in large establishments where the official assisted has duties of such scope and which require so much attention that the work of personal scrutiny, correspondence, interviews, and similar significant, discretionary tasks must be delegated. This exemption only applies to employees whose administrative duties require the exercise of discretion and independent judgment with respect to matters of significance. The exemption does not apply to a receptionist or assistant whose duties are to answer the phone, open and distribute mail to others, greet customers or clients, and other routine duties. This exemption also does not generally apply to a bookkeeper

whose duties are to prepare the payroll, or to track and pay accounts receivable or record accounts payable and other routine and repetitive duties. All of the examples in this category are dependent on actual duties performed.

6.2 Staff Employees. Staff employees are those who can be described as staff, rather than production or line employees. They include, but are not limited to, employees who act as advisory specialists to management. Typical examples of such advisory specialists are tax experts, insurance experts, sales research experts, wage-rate analysts, investment consultants, foreign exchange consultants, and statisticians. Also included are employees who are in charge of a so-called functional department, which may frequently be a one-employee department. Typical examples of such employees are credit managers, purchasing agents, buyers, safety directors, personnel directors, and labor relations directors. All of the examples in this category are dependent on actual duties performed.

6.3 Employees That Perform Special Assignments. Employees whose duties on special assignments qualify them for the administrative exemption often perform their work away from their employer's place of business. Typical titles of such employees are lease buyers, field representatives of utility companies, and location managers of motion picture companies. This classification also includes some employees whose special assignments are performed entirely or partly inside their employer's place of business. Examples are special organization planners, customers' brokers in stock exchange firms, and account executives in advertising firms. All of the examples in this category are dependent on actual duties performed.

7. Office or Nonmanual Work Directly Related to Management Policies or General Business Operations.

The administrative employee's primary duty must be office or nonmanual work directly related to the management, policies, or general business operations of the employer or of the employer's customers. This requirement distinguishes nonmanual, administrative work from manual work. An employee whose primary duty is manual work cannot qualify for the exemption. Section 8 below discusses what work qualifies as office or nonmanual work directly related to management policies or general business operations.

An administrative employee may still be exempt if they perform some manual work that is directly and closely related to the work that requires the exercise of discretion and independent judgment. However, if the employee performs a substantial amount of manual work, other than office work, that employee will not qualify for exemption as a bona fide administrative employee. This is true even if the manual work performed is directly and closely related to the work requiring the exercise of discretion and independent judgment. Employees who spend most of their time in using tools, instruments, machinery, or other equipment, or in performing repetitive operations with their hands, no matter how much skill is required, would not be bona fide administrative employees.

8. Administrative Work Directly Related to Management Policies or General Business Operations of the Employer or Employer's Customers.

The requirement that administrative work relates directly to management policies or general business operations means that the employee must perform work directly related to running the

business, as distinguished, for example, from working on a manufacturing production line selling a product in a retail or service establishment, or performing routine clerical duties. The exemption is limited to employees who perform work of substantial importance to the management or operation of the business of their employer or employer's customers.

It is not possible to lay down specific rules that will indicate the precise point at which work becomes of substantial importance to the management or operation of a business. Generally, those employees who hold the run-of-the-mill positions are not performing work directly related to management policies or general business operations and are not exempt even though they may exercise some amount of discretion and judgment related to how they perform their administrative tasks. Whether work is sufficiently related to management or operations must be considered on a case-by-case basis.

Examples of administrative, "general business operations" that may qualify include:

- Advising management;
- Planning operations;
- Negotiating on behalf of the company;
- Representing the company;
- Major purchasing; and
- Business research.

Individuals performing this work can be exempt administrative employees even if they are an assistant to an executive.

Other work that qualifies as relating to management policies or operations includes the formulation of management policies, the operation of the business as a whole, and work that executes and carries out those policies and operational decisions.

It may also include advisory specialists, consultants, experts, analysts, marketers, and promoters, or work in functional areas such as tax, finance, accounting, budgeting, auditing, insurance, quality control, purchasing, procurement, advertising, marketing, research, safety and health, personnel management, human resources, employee benefits, labor relations, public relations, government relations, computer network, internet and database administration, legal and regulatory compliance, and similar activities.

This list of functional areas or departments that generally relate to management and general business operations does not mean that all persons performing jobs with those titles or in those areas are necessarily exempt. Each case must be examined individually. Within such functional areas, it is still necessary to analyze the importance or nature of the work performed (i.e., does the employee exercise discretion and independent judgment as to matters of significance) in order to determine if the administrative exemption applies. Whether a particular employee primarily performs exempt work depends on the actual duties performed.

Employees may also qualify if they carry out major assignments in conducting the operations of the business, or if their work affects business operations to a substantial degree, even though their assignments are tasks related to the operation of a particular segment of the business. The fact that there are a number of other employees of the same employer carrying out assignments of the same relative importance or performing identical work does not affect the determination of whether the employees meet this test, so long as the work of each such employee is of substantial importance to the management or operation of the business.

Management policies or general business operations can be either those of the employer or those of the employer's customers. For example, many bona fide administrative employees perform important functions as advisers and consultants for their employer's customers, for a fee. Typical examples are tax experts, labor relations consultants, financial consultants, systems analysts, or resident buyers. Many bona fide administrative employees also perform important functions as advisors or consultants in analyzing and recommending changes in business operations (e.g. management consultants). Such employees, if they meet the other requirements of this section, qualify for exemption regardless of whether the management policies or general business operations are directly related to those of their employer's clients or customers or those of their employer.

9. Administrative Employees Must Exercise Discretion and Independent Judgment.

In general, the exercise of discretion and independent judgment involves the comparison and the evaluation of possible courses of conduct, and acting or making a decision after the various possibilities have been considered. The term implies that the person has the authority or power to make an independent choice, free from immediate direction or supervision, and with respect to matters of significance.

In order to determine whether an employee exercises direction and independent judgment, consider factors such as whether the employee:

- Has authority to formulate, change, interpret, or implement management policies or operating practices;
- Carries out major assignments in conducting the operations of the business;
- Performs work that affects business operations to a substantial degree (even if the work relates to operation of only a particular segment of the business);
- Has authority to negotiate, commit, or bind the employer in matters that are significant to the company or have significant financial impact;
- Has authority to waive or deviate from established policies and procedures without prior approval;
- Provides consultation or expert advice to management;
- Is involved in planning long- or short-term business objectives;
- Investigates and resolves matters of significance on behalf of management;
- or
- Represents the employer in handling complaints, arbitrating disputes or resolving grievances.

9.1 Exercise of Skill Does Not Require Discretion and Independent Judgment.

The use of skill in applying techniques, procedures, or specific standards is not work that requires the exercise of discretion and independent judgment.

Examples of employees exercising skill, rather than discretion and independent judgment, include: simply applying the employee's knowledge in following prescribed procedures or determining which procedure to follow; determining whether specified

standards are met; or determining whether an object falls into one or another of a number of definite grades, classes, or other categories. These applications of skill are not considered the exercise of judgment or discretion, regardless of whether the employee uses testing or measuring devices or solely their own skill and knowledge to make the determination.

Similarly, recording or tabulating data is not exempt work, so an employee such as a statistician who primarily performs that duty without independent judgment or discretion would not be an exempt administrative employee even if the job title suggests otherwise. As another example, an HR generalist may not be exempt where the particular way the employer requests that the work be performed does not allow for independent judgment. A typical HR generalist may screen applicants and has skill in the application of techniques and procedures for that task. Often such an employee will interview applicants and obtain data from them regarding their qualifications and fitness for employment. The data may be entered on a form specially prepared for the purpose. The screening operation consists of rejecting all applicants who do not meet standards for the particular job or for employment by the company. The standards are usually set by the employee's superior or other company officials, and the decision to hire from the group of applicants who do meet the standards is similarly made by other company officials. In this scenario, the HR generalist exercises skill but not independent judgment and discretion and is therefore not exempt.

9.2 Some Routine Tasks May be Performed by Exempt Employees.

Tasks that are comparatively routine in nature can involve the exercise of discretion and judgment if the person who actually makes the ultimate decisions is doing them.

For example, an exempt Recruitment Coordinator will often perform functions similar to the HR generalist. That is, the Recruitment Coordinator will interview applicants to obtain the necessary data and eliminate applicants who are not qualified. The Recruitment Coordinator will then hire one of the qualified applicants. Thus, when the Recruitment Coordinator who does the hiring performs the interviewing and screening, that constitutes exempt work—even though this work is routine—because this work is directly and closely related to the employee's exempt functions.

9.3 The Decisions Do Not Have to Be Final.

The phrase “discretion and independent judgment” does not necessarily imply that the decisions made by the employee are final, with no review at all, or that the employee must have unlimited decision-making authority. The decisions made as a result of the exercise of discretion and independent judgment may consist of recommendations for action. The fact that an employee's decision may be revised or reversed on occasion after a review does not mean that the employee is not exercising discretion and independent judgment.

The employees in the following examples exercise discretion and independent judgment within the meaning of the regulations despite the fact that their decisions or recommendations are reviewed at a higher level:

Example 1—The assistant to the president of a large corporation may regularly reply to correspondence addressed to the president. Typically, such an assistant will submit the more important replies to the president for review before they are sent out. Upon

occasion, after review, the president may alter or discard the prepared reply and direct that another be sent instead. This occasional action by the president does not mean that the assistant does not exercise discretion and independent judgment in answering correspondence and in deciding which replies may be sent out without review by the president.

Example 2—The policies formulated by the credit manager of a large corporation may be subject to review by higher company officials who may approve or disapprove these policies.

Example 3—A management consultant who has made a study of the operations of a business and who has drawn up a proposed change in organization may have the plan reviewed or revised by superiors before it is submitted to the client.

Example 4—A purchasing agent may be required to consult with top management officials before making a purchase commitment for raw materials in excess of the contemplated plant needs for a six month period.

10. Discretion and Independent Judgment on Decisions in Significant Matters.

To meet the administrative exemption, an employee must not only exercise discretion and independent judgment, but must specifically do so in significant matters. Most employees use some discretion and independent judgment in their day-to-day duties. For instance, it is frequently left to a truck driver to decide which route to follow in going from one place to another; a shipping clerk is normally permitted to decide the method of packing and the mode of shipment of small orders; and a bookkeeper may usually decide whether to post first to one ledger rather than another. These kinds of routine decisions are not “significant matters” and so do not qualify as the exercise of discretion and independent judgment within the meaning of the exemption.

A “matter of significance” means that the decision the employee makes has a high level of importance or consequence to management or to the overall business operations of the employer or of the employer’s customers. For example, a Project Manager who uses discretion and independent judgement to evaluate possible options and formulates a plan and selects necessary tools to meet the project objective of implementing an enterprise-wide system upgrade would be doing so on a “matter of significance.”

This does not include work or decisions that are less important, but might still cause an employer or client to experience financial losses. For example, a messenger who is entrusted with carrying large sums of money does not exercise discretion and independent judgment with respect to matters of significance even though serious consequences may result from the employee’s neglect. Similarly, an employee who operates very expensive equipment does not exercise discretion and independent judgment with respect to matters of significance merely because improper performance of the employee’s duties could damage the machines and therefore cause serious financial loss to the employer. Similarly, an employee who operates very expensive equipment does not exercise discretion and independent judgment with respect to matters of significance merely because improper performance of the employee’s duties could damage the machines and therefore cause serious financial loss to the employer.

11. Clerical Duties Are Not Exempt Duties.

The following example types of duties are not considered “office or nonmanual work directly related to the management or general business operations of the employer or the employer’s customers” and do not satisfy the administrative exemption:

- Receptionist duties such as answering phones, taking messages, signing for package deliveries;
- Ordering routine office supplies (paper, pens, notebooks, post-its, etc.);
- Entering data for accounts payable and accounts receivable (where the employee has no signing authority);
- Modifying account names or attributes in accounting software including for improved job costing/profit accounting at year end;
- Word processing for job contacts, lien waivers, letters, or labels;
- Sending notices to subcontractors regarding updating their workers’ compensation or liability insurance; or
- Maintaining notebook or paper files for subcontractors, clients, or customers

Such duties are routine duties that involve clerical or secretarial work, recording or tabulating data, and performing other mechanical, repetitive, and routine work and are therefore nonexempt in nature.

12. Trainees Are Not Administrators.

The exemption does not include employees training to become administrators and not actually performing the duties of an exempt administrator. However, a bona fide administrative employee does not lose the employee’s exempt status merely by undergoing further training for the job performed.