

L&I has updated the job duties tests required for workers to be considered exempt from overtime, paid sick leave, and other protections under the State Minimum Wage Act. The updates reduce the number of duties tests for each exemption category from two to one, and align the tests more closely with federal standards. These updated job duties tests will go into effect July 1, 2020.

For an employer to determine if a worker is exempt from overtime and other Minimum Wage Act requirements, the employer must make sure the worker meets each element of the job duties test. Below is an overview of the executive duties test and key terms employers should know.

### The duties test

This test can help determine whether an employee is exempt from overtime pay, paid sick leave, and other requirements. In general, when an employee does executive or management work and does **all** of the following, then overtime and paid sick leave aren't required. The employee:

- Has the **primary duty** of managing the business, or a distinct department or subdivision of the business.
- **Customarily and regularly** directs the work of two or more other employees. This could mean supervising two full-time employees, four half-time employees, or some combination that equals two.
- Has the authority to hire or fire employees, or whose recommendations on hiring, firing, or promoting employees are usually followed.
- Is paid on a **salary basis**, and the amount of that salary is equal to or greater than the required salary threshold.

A business owner can also meet the executive exemption if that person owns at least 20 percent equity interest in the business, and is actively involved in managing the business. These employees can meet the executive exemption without meeting the salary requirements.

**Note:** An employee's actual job duties, not job title or job description, determine if the employee meets the executive exemption requirements.

The full executive duties test requirements can be found in [WAC 296-128-510](#).

### Key terms

**Primary duty:** The main, major, or most important duty an employee performs. An employee's primary duty might be the biggest or most consequential responsibility, or it could be the duty the employee spends the most time on.

**Customarily and regularly:** Work that is performed repeatedly, for instance work regularly done each workweek, as opposed to occasional or one-time tasks.

**Salary basis:** A predetermined and fixed salary that is not subject to reduction because of variations in the quality or quantity of work performed.

---

### For more info

You can call Employment Standards at 360-902-5316 or 1-886-219-7321.

**L&I overtime rule change webpage:** [Lni.wa.gov/OvertimeRulemaking](https://lmi.wa.gov/OvertimeRulemaking)

**Sign up for email updates:** [Lni.wa.gov/wagenews](https://lmi.wa.gov/wagenews)