

Minimum Wage Act Exemptions for White-Collar Workers

By the Employment Standards Outreach Team





Purpose

The information in this presentation is to help you understand the changes to Minimum Wage Act exemptions for executive, administrative, and professional (EAP) workers as well as outside salespeople and computer professionals across all industries in Washington. The information in this presentation will also highlight useful tools that L&I has created.



Presentation overview

- Minimum Wage Act protections
- Overtime exemption rule updates
- Changes to the state rules
- Changes to the job duties tests
- Key terms
- Salary thresholds
- Employer-size calculations
- Review of each exemption type:
 - Executive
 - Administrative
 - Professional
 - Computer professional
 - Outside salespeople
- Potential compliance options
- Differences between state and federal rules
- Resources
- Contact information
- Q&A



Minimum Wage Act overview

- Minimum Wage Act protections ([Chapter 49.46 RCW](#))
 - Minimum wage
 - Overtime (time and a half) for hours worked over 40 per workweek
 - Tips and service charges
 - Paid sick leave
 - Protection from retaliation/discrimination
- Applies to most employees, except those who are specifically exempt from the law.



Overtime rules introduction

L&I updated the rules that determine which workers in Washington can be exempt from overtime and other Minimum Wage Act protections.

These changes affect executive, administrative, and professional (EAP) workers as well as computer professionals and outside sales employees across all industries.

The updated rules mean tens of thousands of Washington workers will be properly paid for the hours they work, and others will regain the right to overtime and other protections.



Why did it change?

Last major update to salary threshold	Most recent update to salary threshold
<ul style="list-style-type: none"> Was made in 1976 	<ul style="list-style-type: none"> Was made as of July 1, 2020
<ul style="list-style-type: none"> Minimum salary threshold was set at \$250/week (13,000/year) 	<ul style="list-style-type: none"> Minimum salary threshold is now a multiplier of the state minimum wage
<ul style="list-style-type: none"> Less than current minimum wage 	<ul style="list-style-type: none"> Threshold is no longer less than minimum wage
<ul style="list-style-type: none"> Outdated and no longer identifies bona fide exempt workers 	<ul style="list-style-type: none"> Will not become outdated again due the threshold automatically updating as the minimum wage adjusts



Requirements for exempt white-collar workers

State and federal regulations generally use this three-part test to determine if an employee is exempt:

- **Salary basis test:** The employee must be paid a predetermined, fixed salary
- **Salary level test:** The employee's salary must be more than a minimum specified amount, to qualify for the exemption
- **Duties test:** The employee's job duties must primarily involve executive, administrative, or professional duties as defined by the regulations



Changes to the state rules

L&I made two significant changes to the rules regarding executive, administrative, and professional workers who are exempt from earning overtime and other protections under the Minimum Wage Act:

- Updating the job duties tests
- Updating the salary threshold to qualify for exemption



Changes to the jobs duties tests

- The updated rules combine the previous two job duty tests into one for each exemption. There are separate tests for executive, administrative, professional, computer professional, and outside sales employees.
- An employee's actual job duties, not job title or job description, determine if the employee meets the exemption requirements.
- The language of the state tests are now more closely aligned with federal standards to make it easier to properly classify workers.



Key terms in the job duties tests

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.

Discretion and independent judgment

Comparing and evaluating possible courses of conduct and acting or making a decision after the various possibilities have been considered. It implies that the employee has the authority to make an independent choice, free from immediate direction or supervision.



Salary threshold multiplier

- The salary threshold is now a multiplier of the state minimum wage.
- The salary threshold will be phased-in over 8 years, with the pace dependent on employer size. Small employers (1-50 workers) have a slower phase-in.
- The final multiplier will be 2.5 times the state minimum wage by Jan. 1, 2028, regardless of employer size.
- After that, the multiplier will remain constant but the threshold will adjust based on changes to the state minimum wage.

More info: [L&I Administrative Policy ES.A.9.9 on Salary Thresholds](#)



Exclusions from the salary threshold

The salary threshold calculation does not include the following non-salary compensation:

- Board
- Food
- Lodging
- Bonuses
- Commissions
- Benefits



Salary threshold implementation schedule

Salary thresholds for overtime exempt workers are a multiplier of state minimum wage for a 40-hour workweek



2025 salary thresholds

- Small businesses: \$1,332.80/week (\$69,305.60 a year)
- Large businesses: \$1,499.40/week (\$77,968.80 a year)

For small employers with 1–50 employees

When the rule takes effect	Multiply minimum wage by...	Projected salary threshold, weekly	Projected salary threshold, annual
July 1, 2020	1.25	\$675.00	\$35,100.00
Jan. 1, 2021	1.5	\$821.40	\$42,712.80
Jan. 1, 2022	1.75	\$1,014.30	\$52,743.60
Jan. 1, 2023	1.75	\$1,101.80	\$57,293.60
Jan. 1, 2024	2	\$1,302.40	\$67,724.80
Jan. 1, 2025	2	\$1,332.80	\$69,305.60
Jan. 1, 2026	2.25	\$1,537.20	\$79,934.40
Jan. 1, 2027	2.25	\$1,575.90	\$81,946.80
Jan. 1, 2028	2.5	\$1,795.00	\$93,340.00

For large employers with 51 or more employees

When the rule takes effect	Multiply minimum wage by...	Projected salary threshold, weekly	Projected salary threshold, annual
July 1, 2020	1.25	\$675.00	\$35,100.00
Jan. 1, 2021	1.75	\$958.30	\$49,831.60
Jan. 1, 2022	1.75	\$1,014.30	\$52,743.60
Jan. 1, 2023	2	\$1,259.20	\$65,478.40
Jan. 1, 2024	2	\$1,302.40	\$67,724.80
Jan. 1, 2025	2.25	\$1,499.40	\$77,968.80
Jan. 1, 2026	2.25	\$1,537.20	\$79,934.40
Jan. 1, 2027	2.5	\$1,751.00	\$91,052.00
Jan. 1, 2028	2.5	\$1,795.00	\$93,340.00

Notes

- The salary thresholds after 2025 are projections based on forecasted changes in the Consumer Price Index. These projections have been updated from previous versions.
- These tables do not apply to computer professionals paid by the hour who have higher minimum wage multipliers.

PUBLICATION F700-207-000 [10-2024]





Calculating employer size

Option 1	Option 2
<p>The number of Washington-based workers at the time of the effective date of each step of the implementation schedule.</p> <ul style="list-style-type: none">■ Each employee counts, whether full time or part time	<p>The employer size determination provided by Washington Employment Security Department (ESD) for Paid Family and Medical Leave purposes.</p> <ul style="list-style-type: none">■ ESD provides this determination each fall■ The ESD determination can be used for the next calendar year



Who is considered an employee?

- Any Washington-based employee is considered and counted as an employee, including:
 - Part-time workers
 - Minors
 - New hires
 - Seasonal or intermittent workers
- Employees that are exempt from the Minimum Wage Act, do not count towards an employer's size calculation.

More info:

[L&I Administrative Policy ES.A.13 on Washington-based Employees](#)

[L&I Administrative Policy ES.A.9.9 on franchisees, joint-employment and multi-employment](#)



Executive exemption

There are two paths to meet the executive exemption:

- Executive
 - WAC 296-128-510(1)
 - [Administrative Policy ES.A.9.3](#)
- Business owner
 - WAC 296-128-510(2)
 - [Administrative Policy ES.A.9.3 \(#3\)](#)



Executive exemption

Generally speaking, in order for an employee to meet the executive exemption, 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 or some combination that equals two.
- Has the authority to hire or fire other employees, or can recommend hiring, firing, or promoting other employees.
- Is paid on a salary basis, and the amount of that salary is equal to or greater than the required salary threshold.



Business owner exemption

An employee can also meet the executive exemption as a business owner if they:

- Own at least 20% equity interest in the business
- Are actively involved in managing the business

Business owners can meet the executive exemption without meeting any salary basis or salary threshold requirements.



Administrative exemption

There are two paths to meet the administrative exemption:

- Administrative
 - WAC 296-128-520(1)
 - [Administrative Policy ES.A.9.4](#)
- Academic administrator
 - WAC 296-128-520(2)
 - [Administrative Policy ES.A.9.4 \(#3\)](#)



Administrative exemption

Generally speaking, in order for an employee to meet the administrative exemption, the employee:

- Has the primary duty of non-manual work that is related to managing or operating the business or their customers. This might include helping run the business by setting policies, assisting a high-level executive, acting as an expert advisor to management, or performing special assignments.
- Has discretion and independent judgement (such as decision-making authority) about important matters while performing that primary duty.
- Is paid on a salary or fee basis, and the amount of that salary is equal to or greater than the required salary threshold.



Academic administrator exemption

An employee can also meet the administrative exemption if, the employee:

- Has the primary duty of performing administrative work related to academic instruction or training in an educational establishment. Typical examples may include superintendents, principals, or other heads of school systems.
- Is paid on a salary or fee basis, and the amount of that salary is equal to or greater than the required salary threshold; or, on a salary basis that is at least equal to the entrance salary for teachers in that educational establishment.



Professional exemption

There are five paths to meet the professional exemption:

- Learned professional
 - WAC 296-128-530(1)(a)(i)
 - [Administrative Policy ES.A.9.5 \(#1 and #5\)](#)
- Creative professional
 - WAC 296-128-530(1)(a)(ii)
 - [Administrative Policy ES.A.9.5 \(#1 and #6\)](#)
- Teaching professional
 - WAC 296-128-530(2)
 - [Administrative Policy ES.A.9.5 \(#7\)](#)



Professional exemption

- Legal professional
 - WAC 296-128-530(3)
 - [Administrative Policy ES.A.9.5 \(#8\)](#)
- Medicine professional
 - WAC 296-128-530(3)
 - [Administrative Policy ES.A.9.5 \(#8\)](#)



Learned professional

Generally speaking, in order for an employee to meet the learned professional exemption, the employee:

- Has a primary duty requiring advanced knowledge that they would get from lengthy specialized instruction in a field of science or learning. Such as a graduate degree, or a specialized certification like a Certified Public Accountant.
- Is paid on a salary or fee basis, and the amount of that salary or fee is equal to or greater than the required salary threshold.



Creative professional

Generally speaking, in order for an employee to meet the creative professional exemption, the employee:

- Has a primary duty of doing work in a creative or artistic field that requires invention, imagination, originality, or talent.
- Is paid on a salary or fee basis, and the amount of that salary or fee is equal to or greater than the required salary threshold.



Teaching professional

Generally speaking, in order for an employee to meet the teaching professional exemption, the employee:

- Must work as a teacher in an educational establishment
- Must be paid on a salary or fee basis. There is no minimum salary threshold requirement for teachers



Legal and medicine professional

Generally speaking, in order for an employee to meet the legal or medical professional exemption, the employee:

- Must be a practicing lawyer, doctor, or medical resident
- These law and medicine employees can meet the professional exemption without meeting the salary basis or salary threshold requirements



Computer professional exemption

Technical guidance:

- WAC 296-128-535
- [Administrative Policy ES.A.9.6](#)

Generally speaking, in order for an employee to meet the computer professional exemption, the employee must work as a:

- Computer system analyst
- Computer programmer
- Software engineer
- A similarly skilled worker in the computer field



Computer professionals

Have a primary duty of one of the following:

- Applying systems analysis procedures (including consulting with users) to determine hardware, software, or system functional specifications
- The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications
- The design, documentation, testing, creation or modification of computer programs related to machine operation systems
- A combination of these duties



Computer workers who are not exempt

An employee whose primary duty consists of any of the following activities is not exempt:

- Manufacture, repair, or maintenance of computer hardware and related equipment
- Work relying on the use of computers and computer software programs (such as engineers, drafters, and other employees skilled in computer-aided design software), but who are not usually doing computer systems analysis and programming



Computer professionals

- Is paid on a salary or fee basis, and the amount of that salary or fee is equal to or greater than the required salary threshold; or
- Is paid hourly at a rate of at least 3.5 times the state minimum wage. The minimum hourly threshold for computer professionals is **\$56.98/hour**.



Outside salesperson exemption

Technical guidance:

- WAC 296-128-540
- [Administrative Policy ES.A.9.7](#)

Generally speaking, in order for an employee to meet the outside salesperson exemption, the employee:

- Has a primary duty of either:
 - Making sales (including sales, exchanges, contract sales, consignment sales, shipment sales, or other similar sales)
 - Taking orders or making contracts for services or facilities that the client or customer will pay for
- Customarily and regularly does work away from the employer's place of business



Outside salesperson exemption

- Is paid on a guaranteed salary, commission or fee basis. Outside salespeople do not need to meet the minimum salary threshold.
- Is told that they are an exempt “outside salesperson”



Potential compliance options for employers

Convert current exempt salaried employees to non-exempt salaried employees and pay overtime

- Track hours of work for non-exempt salaried employees
- Pay overtime for hours worked over 40 per workweek
- Provide other Minimum Wage Act protections



Potential compliance options for employers

Limit hours worked by employees to 40 per workweek

- Convert current salaried exempt employees to salaried non-exempt or hourly non-exempt
- Track hours of work and limit hours of work to 40 or less per workweek
- Provide other Minimum Wage Act protections



Potential compliance options for employers

Convert current salaried exempt employees to hourly non-exempt employees

- Pay formerly salaried employees on an hourly basis
- Pay overtime for hours worked over 40 per workweek
- Provide other Minimum Wage Act protections



Potential compliance options for employers

Maintain exempt status

- Ensure employees meet the particular exemption's duties test **and** salary requirements to remain exempt



State vs. federal regulations

Federal rules	State rules
<ul style="list-style-type: none"> Salary threshold is \$844/week (\$43,888/year) – increasing on: 1/1/2025 to \$58,656/yr or \$1128/wk 	<ul style="list-style-type: none"> Salary threshold is 2x the state minimum wage for all employers Increases to 2.5x the state minimum wage after an 8-year phase in
<ul style="list-style-type: none"> Includes a separate exemption for highly compensated employees who make at least \$132,969/year (increasing on 1/1/2025) 	<ul style="list-style-type: none"> Does not include an exception for highly compensated employees
<ul style="list-style-type: none"> Nondiscretionary bonuses and incentive payments (including commissions) paid at least annually can satisfy up to 10% of the federal salary threshold 	<ul style="list-style-type: none"> Nondiscretionary bonuses and incentive payments do not count towards the state threshold

Note: Employers need to follow the standard more favorable to employees when state and federal regulations differ.



State vs. federal regulations

Federal rules	State rules
<ul style="list-style-type: none"> Does not require exempt teachers to be paid on a salary or fee basis 	<ul style="list-style-type: none"> Exempt teachers must be paid on a salary or fee basis, but there is no salary threshold requirement
<ul style="list-style-type: none"> Does not require exempt outside salespeople to be compensated on a salary, commission or fee basis 	<ul style="list-style-type: none"> Exempt outside salespeople must be compensated on a guaranteed salary, commission, or fee basis, but there is no salary threshold requirement
<ul style="list-style-type: none"> Employers do not have to advise their employee of their exempt status 	<ul style="list-style-type: none"> Employers must advise their employee that they are an exempt outside salesperson

Note: Employers need to follow the standard more favorable to employees when state and federal regulations differ.



Informational resources

[Changes to Overtime Rules web page](#)

Gives an overview of the rule updates and additional resources

[Changes to Overtime Rules Q&A](#)

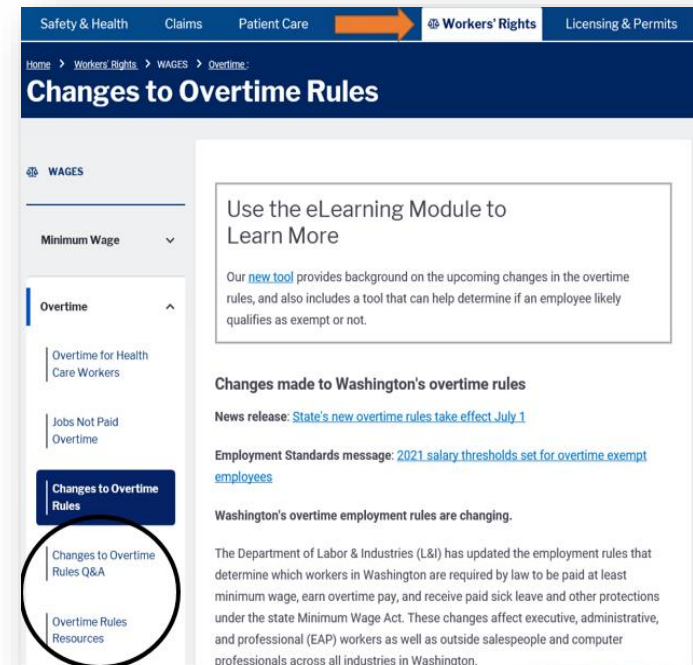
Answers to commonly asked questions

[Salary threshold implementation schedule](#)

Shows how the salary threshold will be phased in

[Threshold phase-in schedule for computer professionals paid hourly:](#)

Shows how the hourly computer professional threshold will be phased in





Free educational webinars

L&I's Employment Standards Program offers free monthly webinars regarding the following workplace rights topics:

- **Employer Guide to Workers Rights (Spanish upon request)**
- **Know Your Worker Rights (Spanish upon request)**
- **EAP Overtime Exemptions**
- **Equal Pay and Opportunities Act**
- **Isolated Worker Protections**
- **Employer's Guide to Paid Sick Leave Rights (Spanish upon request)**

[Register](#) for a webinar on the L&I Workshops and Training page.



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 - Phone and in-person interpretation
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More info: [Lni.wa.gov/LanguageServices](https://lni.wa.gov/LanguageServices)

Access Coordinator: Luz Gonzalez-Virgen, 360-789-5287, Luz.Gonzalez-Virgen@Lni.wa.gov



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 - Fill out a [Civil Rights Discrimination Complaint Form](#) and mail it to the address listed at the top of the form or email it to CivilRights@Lni.wa.gov
 - Call the Civil Rights Program at 1-855-682-0778 or send an email to CivilRights@Lni.wa.gov
 - Visit your nearest [L&I office](#).

More info: [Lni.wa.gov/LanguageServices](https://lni.wa.gov/LanguageServices)



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L&I Protected Leave Unit: ProtectedLeave@Lni.wa.gov

L&I Agriculture Questions: ESFarmLabor@Lni.wa.gov

L&I Equal Pay Unit: equalpay@Lni.wa.gov

L&I Youth Employment Supervisor: TeenSafety@Lni.wa.gov

L&I Isolated Worker Specialist: IsolatedWorkers@Lni.wa.gov

L&I TNC Supervisor: tncdriversupport@Lni.wa.gov

Access Coordinator: Luz.Gonzalez-Virgen@Lni.wa.gov

L&I Civil Rights Program: 1-855-682-0778 or email, CivilRights@Lni.wa.gov



Questions?

Contact our Employment Standards Outreach Team at:

EAPrules@Lni.wa.gov

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Navigating Minimum Wage & Salary Threshold Changes

Margaret Henning, CCP, SPHR

Challenges

- You are a nonprofit (budget, budget, budget!)
 - Do not make assumptions
 - Start with fundamentals
 - Work with best practices
 - Be ready to answer questions
-

Assumptions Not to Make

- That if a job is determined to be exempt, the employee **must be exempt**
 - That employees will be delighted that they are nonexempt and can earn overtime
 - That if the job is exempt, the employee does not receive sick time (local sick leave laws)
 - That employees **will understand** what exempt/nonexempt means
-

Pay Updates – Recap and Expansion

- State minimum wage increases to \$16.66/hour as of January 1, 2025.
 - Seattle minimum wage increases to \$20.76
 - SeaTac, Tukwila, Renton, Bellingham, Burien and unincorporated King County have different minimum wages
-

Pay Updates – Recap and Expansion

- National salary threshold is \$58,656 as of 1/1/25
 - Other states have their own salary thresholds, and minimum wages
 - Remember that, to be exempt, the person/job must meet duties **and** pay level tests; there is no obligation to move to exempt status
-

Employers need to:

- Ensure job descriptions are up-to-date.
 - Audit exempt/non-exempt status against new salary thresholds.
 - Make status determinations and communicate clearly
 - Resist the urge to move those who are exempt employees to contractors
 - Plan increases for any employees below the new minimum wage(s)
-

Best Practices

- Job descriptions (JD) done well are key!
 - Choose reviewers close to the job (how about the employee that does the job)
 - Use JD form that breaks down percentages of duties in categories
 - Date of review on JD
 - Quality control flow through one person
 - Duties, **not title**, determine the exempt status, not title
-

Best Practices

- Determine exempt status (how does that happen)
 - Apply salary test (threshold does not prorate!)
 - Apply duties test
 - Use the job description you just worked through so diligently
 - Have one person be quality control for status review
 - Add exempt/nonexempt status to JD
-

Best Practices

- Communicate

 - Plan thoroughly before communicating

- What if an employee is misclassified as exempt?
 - Communicate to everyone involved
 - Manage your risk and
 - If in doubt....CALL YOUR ATTORNEY
 - There is no such thing as over communication
-

Best practices

- What do newly nonexempt employees and their supervisors need to know
 - (Re)Distribute attendance and pay practices
 - Pay week (as opposed to pay period)
 - Meal periods
 - Rest breaks
 - Must track hours
 - <https://www.Lni.wa.gov/workers-rights/workplace-policies/rest-breaks-meal-periods-and-schedules>
-

Remember

- Equal Pay and Opportunities Act – currently covers only pay differences based on gender; as of 7/1/25 will expand to include all protected characteristics
 - Be very cautious when having two individuals in same category be two different pay statuses
-

Best practices

- **Never** let nonexempt staff work “off the clock”
– and explain why
 - Review your job descriptions annually, at a minimum, to insure duties (FLSA/MWA status) have not changed
 - Do your final check
 - Have changes created inequities
 - Run review of demographics
-



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Questions & Comments

