



FAIR LABOR STANDARDS ACT EXECUTIVE, ADMINISTRATIVE AND PROFESSIONAL EXEMPTIONS



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UNITED STATES DEPARTMENT OF LABOR

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1-866-487-9243

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FAIR LABOR STANDARDS ACT



Federal Minimum Wage:
• \$7.25/hour



Overtime: 1 ½ times the regular rate of pay
for all hours over 40 hours in a work week



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“WHITE COLLAR” EXEMPTIONS



Section 13(a)(1) of the FLSA provides an exemption from both minimum wage and overtime pay for employees who are employed in a bona fide:

- [Executive](#);
- [Administrative](#);
- [Professional](#)

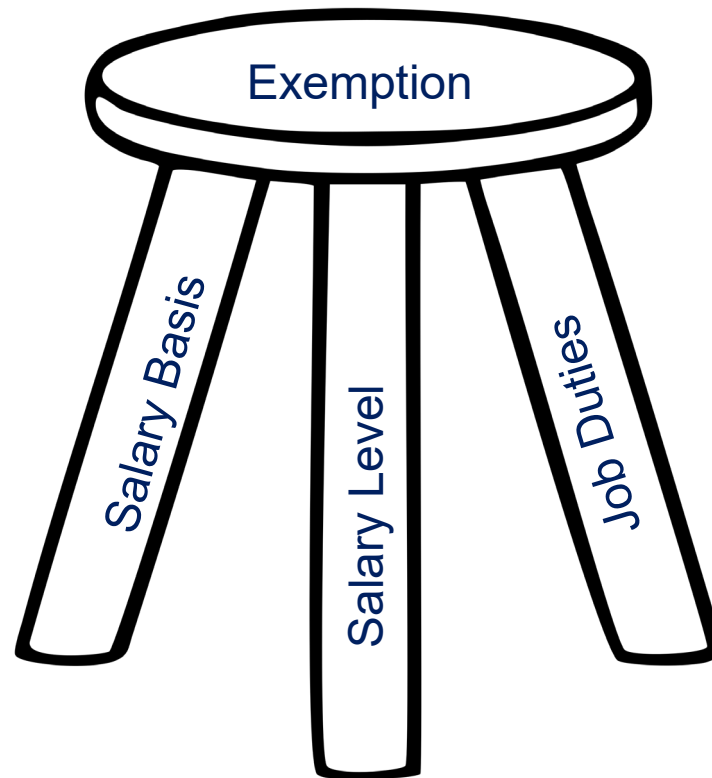


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THREE TESTS FOR EXEMPTION

- Salary Level
- Salary Basis
- Job Duties



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2024 OVERTIME RULE OVERVIEW

DATE	STANDARD SALARY LEVEL	HIGHLY COMPENSATED EMPLOYEE TOTAL ANNUAL COMPENSATION THRESHOLD
Before July 1, 2024	\$684 per week (equivalent to \$35,568 per year)	\$107,432 per year, including at least \$684 per week paid on a salary or fee basis.
July 1, 2024	\$844 per week (equivalent to \$43,888 per year)	\$132,964 per year, including at least \$844 per week paid on a salary or fee basis.
January 1, 2025	\$1,128 per week (equivalent to \$58,656 per year)	\$151,164 per year, including at least \$1,128 per week paid on a salary or fee basis.
July 1, 2027, and every 3 years thereafter	To be determined by applying to available data the methodology used to set the salary level in effect at the time of the update.	To be determined by applying to available data the methodology used to set the salary level in effect at the time of the update.



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NONDISCRETIONARY BONUSES AND INCENTIVE PAYMENTS

Nondiscretionary bonuses and incentive payments (including commissions) are forms of compensation promised in advance to employees (e.g., bonuses for meeting set production goals, retention bonuses, and commission payments based on a fixed formula).

May be used to satisfy up to 10% of the standard salary and special salary levels.

Bonuses must be paid on an annual or more frequent basis.

Remains the same from 2024 rule



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CATCH-UP PAYMENTS

If an employee does not earn enough from the nondiscretionary bonus, commission, or incentive payments in a given year to meet the standard salary level in the 52-week period – an employer may make a “catch-up” payment within one pay period of the end of the 52-week period.

Any such “catch-up” payment will count only toward the prior 52-weeks salary amount and not toward the salary amount during the period in which it is paid.



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SALARY BASIS TEST



- Regularly receives a predetermined amount of compensation each pay period.
- The compensation cannot be reduced because of variations in the quality or quantity of the work performed
- Need not be paid for any workweek when no work is performed



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EFFECT OF IMPROPER DEDUCTIONS

- An actual practice of making improper deductions from salary will result in the loss of the exemption:
 - During the time period in which improper deductions were made
 - For employees in the same job classifications
 - Working for the same managers responsible for the actual improper deductions
- Isolated or inadvertent improper deductions, however, will not result in the loss of exempt status if the employer reimburses the employee



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PAYROLL PRACTICES THAT DO NOT VIOLATE THE SALARY BASIS TEST

- Taking deductions from exempt employees accrued leave accounts
- Requiring exempt employees to keep track of and record their hours worked
- Requiring exempt employees to work a specified schedule
- Implementing bona fide, across-the-board schedule changes



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NO SALARY REQUIREMENTS

The salary level and salary basis tests do not apply to

- Outside Sales Employees
- Doctors
- Lawyers
- **Teachers**
- Certain computer-related occupations paid at least \$27.63 per hour



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EXECUTIVE DUTIES

- Primary duty is management of the enterprise or of a customarily recognized department or subdivision;
- Customarily and regularly directs the work of two or more other employees; and
- Authority to hire or fire other employees or whose suggestions and recommendations as to hiring, firing, advancement, promotion or other change of status of other employees are given particular weight



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MANAGEMENT DUTIES

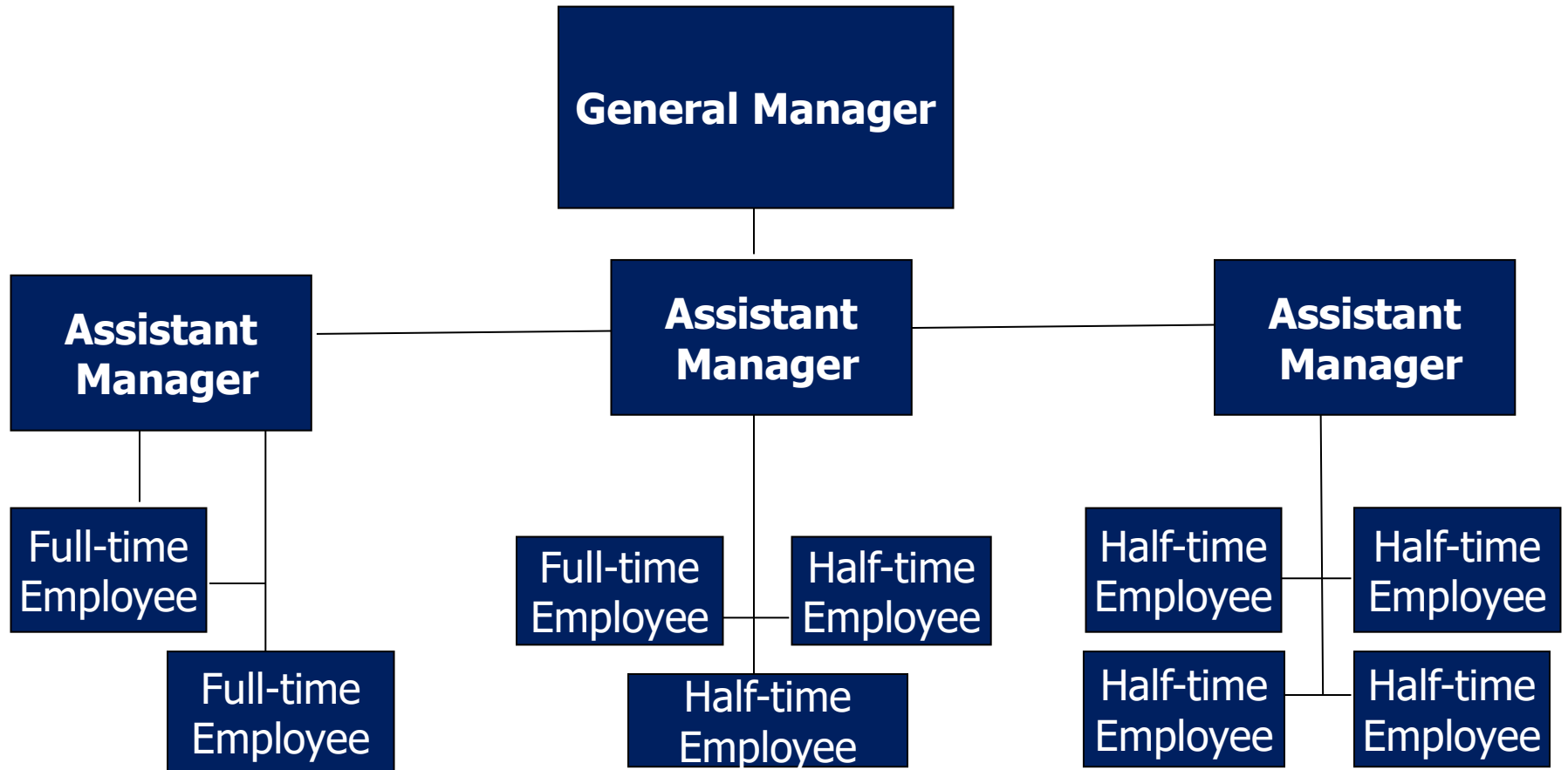
- Interviewing, selecting, and training employees
- Setting and adjusting pay and work hours
- Maintaining production or sales records
- Appraising employee productivity and efficiency
- Handling employee complaints and grievances
- Disciplining employees
- Planning and apportioning work among employees



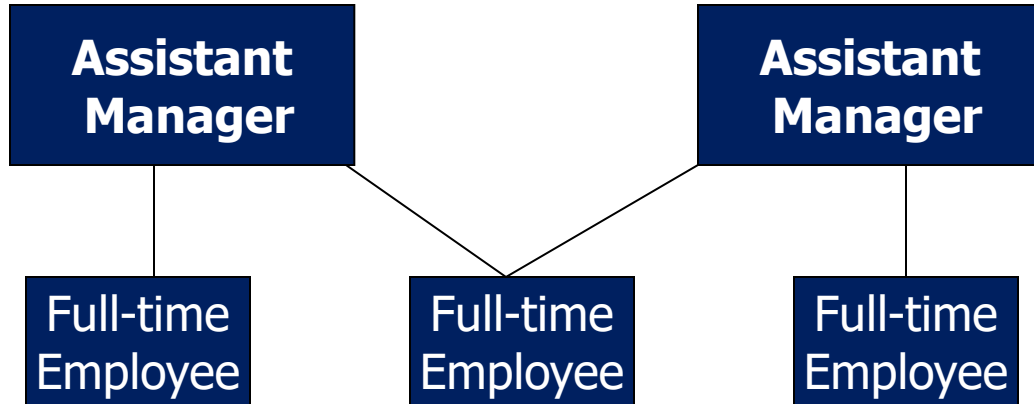
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STAFFING MEETS THE “TWO OR MORE” REQUIREMENT



STAFFING DOES NOT MEET THE “TWO OR MORE” REQUIREMENT



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REVIEW EXECUTIVE EXEMPTION

Duties requirements for executive exemption:

- Primary duty of management;
- Customarily and regularly directs the work of two or more other employees; and
- Directs work of two FT employees. Authority to hire, fire or make recommendations with particular weight to affect advancement, promotion or change of status for other employees.

The executive exemption also applies to 20% owners who are actively engaged in management.



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ADMINISTRATIVE DUTIES

- Whose primary duty is the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and
- Whose primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.



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MANAGEMENT OR GENERAL BUSINESS OPERATIONS

- Refers to the type of work performed by the employee
- Work must be directly related to assisting with the running or servicing of the business
- Does not include working on a manufacturing production line or selling a product in a retail or service establishment



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MANAGEMENT OR GENERAL BUSINESS OPERATIONS EXAMPLES

- Tax
- Finance
- Accounting
- Auditing
- Insurance
- Quality Control
- Purchasing
- Procurement
- Advertising
- Marketing
- Research
- Safety and Health
- Human Resources
- Employee Benefits
- Labor Relations
- Public and Government Relations
- Legal and Regulatory Compliance
- Computer Network, Internet and Database Administration



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DISCRETION AND INDEPENDENT JUDGMENT: ADDITIONAL FACTORS

- Factors include, but are not limited to:
 - Whether the employee has authority to commit the employer in matters that have significant financial impact
 - Whether the employee has authority to waive or deviate from established policies and procedures without prior approval
 - Whether the employee has authority to negotiate and bind the company on significant matters
 - Whether the employee provides consultation or expert advice to management



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DISCRETION AND INDEPENDENT JUDGMENT: DOES NOT INCLUDE

Discretion and independent judgment *does not* include:

- Applying well-established techniques, procedures or specific standards described in manuals or other sources
- Clerical or secretarial work
- Recording or tabulating data
- Performing mechanical, repetitive, recurrent or routine work



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HUMAN RESOURCES

- Human resource managers who formulate, interpret or implement employment policies generally meet the administrative duties requirements
- Personnel clerks who “screen” applicants to obtain data regarding minimum qualifications and fitness for employment generally are not exempt administrative employees



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PROFESSIONAL EXEMPTION LEARNED PROFESSIONAL

- The employee's primary duty must be the performance of work requiring advanced knowledge
- In a field of science or learning
- Customarily acquired by a prolonged course of specialized intellectual instruction



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ADVANCED KNOWLEDGE

- Predominantly intellectual in character
- Includes work requiring the consistent exercise of discretion and judgment
- The advanced knowledge is generally used to analyze, interpret or make deductions from varying facts or circumstances
- **Not** work involving routine mental, manual, mechanical, or physical work
- **Cannot** be attained at the high school level



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FIELD OF SCIENCE OR LEARNING



Occupations with recognized professional status, as distinguished from the mechanical arts or skilled trades



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PROLONGED COURSE OF SPECIALIZED INTELLECTUAL INSTRUCTION IS NOT:

The learned professional exemption is **not** available for occupations that may be performed with:

- Only the general knowledge acquired by an academic degree in any field
- Knowledge acquired through an apprenticeship
- Training in the performance of routine mental, manual, mechanical or physical processes

The exemption also **does not** apply to occupations in which most employees acquire skill by experience



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NURSES



Registered nurses who are registered by the appropriate State examining board generally meet the duties requirements for the learned professional exemption

- Many registered nurses, however, are paid by the hour, not on a salary basis, and thus are entitled to overtime pay

Licensed practical nurses generally ***do not*** qualify as exempt learned professionals



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OTHER EXEMPT PROFESSIONS

- Lawyers
- **Teachers**
- Accountants
- Pharmacists
- Engineers
- Actuaries
- Chefs
- **Athletic trainers**
- Licensed funeral directors or embalmers



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OTHER NONEXEMPT PROFESSIONS

- Accounting clerks and bookkeepers who normally perform a great deal of routine work
- Cooks who perform predominantly routine mental, manual, mechanical or physical work
- Paralegals and legal assistants
- Engineering technicians



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CREATIVE PROFESSIONAL DUTIES

The employee's primary duty must be the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor



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RECOGNIZED FIELD OF ARTISTIC OR CREATIVE ENDEAVOR

- Music
 - Musicians, composers, conductors, soloists
- Writing
 - Essayists, novelists, short-story writers, play writers
 - Screen play writers who choose their own subjects
 - Responsible writing positions in advertising agencies
- Acting
- Graphic Arts
 - Painters, photographers, cartoonists



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FOR MORE INFORMATION

- [Final Overtime Rule](#)
- [Field Operations Handbook](#)
- Guidance Documents
- [Fact Sheets](#)
- [Frequently Asked Questions](#)
- Call or visit the nearest WHD Office
 - Visit the WHD homepages at:
<https://www.dol.gov/agencies/whd>
 - The WHD toll-free information and helpline at:
1-866-4US-WAGE (1-866-487-9243)



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