

WASHINGTON STATE OVERTIME EXEMPTION CHANGES - 2021

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MINIMUM WAGE ACT REQUIREMENTS

- State law requires workers:
 - Be paid a minimum wage;
 - Receive overtime for time worked over 40 hours per work week
 - Receive paid sick leave
 - Protection from retaliation or discrimination for exercising their rights under RCW 49.46.100.
- There are workers who are “exempt” from these protections.

WHO IS EXEMPT FROM OVERTIME PAY REQUIREMENTS?

- Minimum Wage Act provides an exemption from the state minimum wage and overtime pay requirements for employees who are:
 - Executive, Administrative or Professional, certain computer professionals

Note: Being “exempt from civil service” does not equate to being “exempt from overtime rules.”

QUALIFYING FOR THE EXEMPTION

- To qualify for the exemption the classified employee must satisfy two tests:
 - Salary basis test
 - Job Duties test (consider only duties actually performed)
 - Executive, Administrative & Professional, Computer Professional each have their own duties analysis to meet the exemption. WAC 296-128-510, -.520, -.530
- Teachers, Doctors DO NOT need to meet salary threshold requirements.

CHANGES TO OVERTIME RULES- L&I

- Effective January 1, 2021, L&I's new salary threshold for overtime exempt employees:
 - Employees must earn a salary of 1.75 times the minimum wage or \$958.30 a week or \$49,831.60 per year.
- Effective January 1, 2021, L&I's new salary threshold for hourly computer professionals:
 - 3.5X the state minimum wage i.e. \$47.92/hour.

WA STATE'S PHASED IN SALARY THRESHOLD

Start	Multiplier	MinWage	MinMultiplier	Annual
7/1/2020	1.25	\$13.50	\$16.88	\$35,100
1/1/2021	1.75	\$13.69	\$23.96	\$49,831
1/1/2022	1.75	\$ 13.93	\$24.38	\$50,700
1/1/2023	2	\$14.10	\$28.20	\$58,656
1/1/2024	2	\$14.21	\$28.43	\$59,124
1/1/2025	2.25	\$14.40	\$32.40	\$67,392
1/1/2026	2.25	\$14.53	\$32.70	\$68,016
1/1/2027	2.5	\$14.82	\$37.05	\$77,064
1/1/2028	2.5	\$15.12	\$37.80	\$78,624

Federal FLSA Salary Basis (1/1/2020): \$35,568 (annual)

APPLYING THE SALARY THRESHOLD

- Salary threshold is applied to total compensation rather than base pay.
- Reevaluate application of exemption if circumstances change impacting total compensation.
- What counts?
- NOTE: Federal rules have different requirements for what payments can count towards the federal salary threshold.

HANDLING STATE AND FEDERAL DIFFERENCES

- Where differences exist between Washington State and federal overtime rules, the employer must follow the rule that is most favorable to the worker.

	STATE	FEDERAL
July 1, 2020	\$675/wk	\$684/wk
Jan. 1, 2021	\$965/wk	\$684/wk

- Employers need to follow state salary standards beginning Jan. 1, 2021.

GUIDANCE MOVING FORWARD

- Action needed:
 - Review job descriptions to ensure positions continue to meet duties test.
 - Clearly identify exempt duties on the position description form.
 - Apply the three tests previously discussed.
 - Re-review the position if circumstances change mid-year.

GUIDANCE MOVING FORWARD (SPLIT PAY RANGES)

- Split pay ranges (HE WPEA & WFSE and GG WFSE & Coalition): 40-51*
- **Option A:** Employees would switch from overtime eligible to overtime exempt mid-pay range as they naturally move up.
- **Option B:** Employee's in pay ranges that switch between overtime exempt and overtime eligible mid-pay range would all be changed to overtime eligible.
- **Option C:** Move all salaries above the threshold.

RESOURCES

- [Changes to Overtime Rules Q&A](#)
- [Overtime Rules Resources](#)
- [L&I EAP Training Module](#)
- [Exempt NonExempt-Fact Sheet](#)
- RCW 49.46.010(3)(c)
- WAC 296-128

- Questions, please contact:
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