# Washington State Minimum Wage Overtime Eligibility Review and Recommendation

Complete each section below to show the analysis was done to make a proper determination, as more than one exemption may apply. If none apply, the position will be considered overtime eligible. Disclaimer: This worksheet does not replace the position's full analysis of duties on file.

For more information see RCW 49.46 et seq. and Washington Administrative Code 296-128 et seq.

## Position Information

Class Title: Date:

Position Number:

Incumbent's Name (If filled position):

Supervisor's Name:

## Salary Test

Is the employee paid on a salary or fee basis, regardless of the number of hours worked? (See Overtime Eligibility Guidance on page 4 for dollar amount.) If the answer is no, the analysis is complete. Sign and date on page 3. (NOTE: Practicing teachers, doctors and attorneys, and outside sales employees DO NOT need to meet the salary threshold requirements.) ◯ Yes ◯ No

## Administrative Exemption

In order to qualify for this exemption, the answer to the first three (3) questions must be yes; or the answer to the fourth question must be yes.

Do the employee's primary duties consist of office or non-manual work directly related to the management or general business operations of the agency? ◯ Yes ◯ No

Is the employee's office or non-manual work directly related to assisting with the running or servicing of the business? ◯ Yes ◯ No

Does the position require the exercise of discretion and independent judgment with respect to matters of significance? (See Overtime Eligibility Guidance on page 3.) ◯ Yes ◯ No

Does the employee's primary duty consist of performing administrative functions directly related to academic instruction or training in an educational establishment or department or subdivision thereof? (See Overtime Eligibility Guidance on page 5.) ◯ Yes ◯ No

## Professional Exemption

Is the primary duty (See Overtime Eligibility Guidance on page 5) one or more of the following?

Performance of work requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study. (Work which is predominantly intellectual and requires consistent exercise of discretion and judgment as distinguished from routine mental, manual, mechanical or physical work.) ◯ Yes ◯ No

Work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor. This includes such fields as music, writing, acting, and the graphic arts. ◯ Yes ◯ No

The primary duty consists of teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in an educational establishment by which the employee is employed; and who is compensated on a salary or fee basis.

◯ Yes ◯ No

The employee is the holder of a valid license or certificate permitting the practice of law or any of their branches and is actually engaged in the practice thereof. ◯ Yes ◯ No

The employee is the holder of a valid license or certificate permitting the practice of medicine or any of their branches and is actually engaged in the practice thereof; or who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of the profession. (See WAC 296-128-530 and 532 for a more detailed description of medical practitioner.) ◯ Yes ◯ No

## Executive Exemption

Answer to all questions must be yes to qualify for this exemption.

Does the employee manage the enterprise and regularly supervise at least two employees? (If the employee supervises part-time employees, they must aggregate to at least two full-time employees.) ◯ Yes ◯ No

Is the employee in charge of a recognized department, division, or other permanent organizational unit? (It must have a permanent status and a continuing function.) ◯ Yes ◯ No

Are the employee's primary duties managerial and supervisory in nature? ◯ Yes ◯ No

Does the employee have the authority to hire or fire other employees; or, are they an individual whose suggestions and recommendation as to the hiring, firing, advancement, promotion, or any other change of status of other employees are given particular weight? ◯ Yes ◯ No

## Computer Worker Exemption

Answers to the first two questions must be yes.

Does the employee meet the salary basis as identified above or, if compensated on an hourly basis, is employee compensated at a rate not less than the dollar amounts identified in the Overtime Eligibility Guidance on page 5? If the answer is no, the analysis is complete. ◯ Yes ◯ No

Is the employee employed as a computer systems analyst, computer programmer, software engineer or other similarly skilled worker in the computer field? If the answer is no, the analysis is complete. If yes, the primary duty must consist of one or more of the following: ◯ Yes ◯ No

Application of systems analysis techniques and procedures, including consulting with users to determine hardware, software or system functional specifications. ◯ Yes ◯ No

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.

◯ Yes ◯ No

Design, documentation, testing, creation or modification of computer programs related to machine operations systems.

◯ Yes ◯ No

## Signatures:

HR Designee's Name & Title:

HR Designee's Signature: Date:

*Please type your full name in the signature fields. Do not use E-sign features or insert signature images.*

## Analysis:

Include information used in the analyses along with an explanation of their relevance and/or applicability. Indicate if the employee, supervisor, manager or deputy assisted with the evaluation.

Exemption Determination and Rationale:

## Exemption Status:

◯ OT Exempt. If yes, select categories from the Primary Exemption and Secondary Exemption, if applicable. Primary Exemption: Select One Secondary Exemption: Select One

◯ OT Eligible

## Overtime Eligibility Guidance

**Salary basis test:**

Effective July 1, 2020, L&I's new phased in salary threshold for overtime exempt employees to include salaried computer professionals.

| Start | Multiplier | Min Wage | Weekly | Annual |
|---|---|---|---|---|
| 7/1/2020 | 1.25 | $13.50 | $675 | $35,100 |
| 1/1/2021 | 1.75 | $13.69 | $958.30 | $49,831 |
| 1/1/2022 | 1.75 | $14.49 | $1,014.30 | $52,743.60 |
| 1/1/2023 | 2 | $15.74 | $1,259.20 | $65,478.40 |
| 1/1/2024 | 2 | $16.28 | $1,302.40 | $67,724.80 |
| 1/1/2025 | 2.25 | $16.66 | $1,499.40 | $77,968.80 |
| 1/1/2026 | 2.25 | $17.13 | $1,541.70 | $80,168.40 |
| 1/1/2027 | 2.5 | $17.73 | $1,773.00 | $92,196.00 |
| 1/1/2028 | 2.5 | TBD | TBD | TBD |

Federal FLSA Salary Basis (1/1/2020): $35,568 (annual)
Note: Weekly and Annual Salary thresholds after 2026 are projections based on forecasted changes in the Consumer Price Index.

### Hourly Computer Professionals

Effective July 1, 2020, L&I's new phased in salary threshold for Hourly Computer professionals:

| Start | Multiplier | Min Wage | Hourly Wage |
|---|---|---|---|
| 7/1/2020 | 2.75 | $13.50 | $37.13 |
| 1/1/2021 | 3.5 | $13.69 | $47.92 |
| 1/1/2022 | 3.5 | $ 14.49 | $50.72 |
| 1/1/2023 | 3.5 | $ 15.74 | $55.09 |
| 1/1/2024 | 3.5 | $ 16.28 | $56.98 |
| 1/1/2025 | 3.5 | $ 16.66 | $58.31 |
| 1/1/2026 | 3.5 | $ 17.13 | $59.96 |
| 1/1/2027 | 3.5 | $17.73 | $62.06 |

## Additional considerations for the salary test:

General –

- The employee's salary basis rate must be exclusive of board, lodging or other facilities. The employee's salary must be free from reduction for absences caused by witness service, jury duty, or temporary military service.
- The employee's salary must be free from reduction based on quantity or quality of work performed.
- The employee's salary is free from deduction for disciplinary suspensions of less than a full workweek (except for infractions involving matters of major safety significance).

Teachers –

The employee's salary basis rate must be exclusive of board, lodging or other facilities or they must be paid on a salary basis which is at least equal to the entrance salary for teachers in the educational establishment by which they are employed.

[1] Primary is defined as the principal, main, major, or most important duty that the employee performs. See WAC 296-128-505(4) for additional clarification.

[2] Directly Related to Management or General Business Operations: An employee must perform work directly related to assisting with the running or servicing of the business as distinguished from selling a product or service for an establishment.

[3] Discretion and Independent Judgment: The following factors were developed for guidance on whether an employee exercises "discretion and independent judgment with respect to matters of significance".

1. Does the employee have authority to formulate, effect, interpret or implement management policies or operating practices?
2. Does the employee carry out major assignments in conducting the operations of the business?
3. Does the employee perform work that affects business operations to a substantial degree, even if the employee's assignments are related to operations of a particular segment of the business?
4. Does the employee have authority to commit the employer in matters that have significant impact?
5. Does the employee have authority to waive or deviate from established policies or procedures without prior approval?
6. Does the employee have authority to negotiate and bind the company on significant matters?
7. Does the employee provide consultation or expert advice to management?
8. Is the employee involved in planning long-term or short-term business objectives?
9. Does the employee investigate and resolve matters of significance on behalf of management?
10. Does the employee represent the company in handling complaints, arbitrating disputes or resolving grievances?

[4] Performing administrative functions directly related to academic instruction or training: Work related to the academic operations and functions in a school rather than to administration along the lines of general business operations. Such academic administrative functions include operations directly in the field of education. Jobs relating to areas outside the educational field are not within the definition of academic administration.

[5] Customarily acquired by a prolonged course of specialized intellectual instruction: Department of Labor and Industries provides the following two factors for consideration.

1. The standard prerequisite for trained entry into the job must be “specialized academic training”, and
2. Employees who work in such a profession must either possess an advanced degree or have attained substantially the same knowledge level through a combination of work experience and intellectual instruction and perform substantially the same work as the degreed employees.

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

- Only the general knowledge acquired by an academic degree.
- 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.

[6] Management: This includes, but is not limited to, activities such as interviewing, selecting, and training of employees; setting and adjusting their rates of pay and hours of work; directing the work of employees; maintaining production or sales records for use in supervision or control; appraising employees' productivity and efficiency for the purpose of recommending promotions or other changes in status; handling employee complaints and grievances; disciplining employees; planning the work; determining the techniques to be used; apportioning the work among the employees; determining the type of materials, supplies, machinery, equipment or tools to be used or merchandise to be bought, stocked and sold; controlling the flow and distribution of materials or merchandise and supplies; providing for the safety and security of the employees or the property; planning and controlling the budget; and monitoring or implementing legal compliance Measures.