

This fact sheet has five examples of employees who would likely meet or not meet the professional Minimum Wage Act exemption requirements. These examples are provided for illustrative purposes only. If other information is presented throughout the course of an investigation, an employee's exemption status determination could change.

Professional exemption (learned)

Example 1

Wayne completed his four-year degree as of 2020 in a culinary arts program. He started his job as a line cook at the restaurant that same year and two years later, he has finally moved up to sous chef.

Not everyone is so happy with his promotion, however. Krista, who has worked as a line cook for five years, claims that he only got the promotion over her because he is a male. She also got her culinary degree from the same program but currently makes \$55,000 a year, almost \$10,000 less than Wayne. She has even trained Wayne herself on making the perfect filet mignon. Krista's job duties include chopping and cooking food and assembling dishes in her work area.

Krista has always been classified as exempt, which she thought was strange, but she didn't want to speak up because she was hoping to be promoted to sous chef and didn't want to rock the boat.

Now that she has been passed up for the promotion, even when she was better qualified, Krista is entering a wage complaint for January to December of 2022 because she feels it is unfair for her not to have the job as sous chef and is sure that she has been misclassified as exempt. There are 32 employees working for the employer.

Case analysis

1. Is the employee's primary duty the performance of work requiring advanced knowledge that is predominantly intellectual in character and requires the consistent exercise of discretion and judgment?

No. Krista is a line cook and predominantly performs routine mental, manual, mechanical or physical work.

2. Does the employee have advanced knowledge in a field of science or learning?

Yes. Krista has completed a four-year specialized academic degree in a culinary arts program.

3. Is the employee's advanced knowledge customarily acquired by a prolonged course of specialized intellectual instruction and is that knowledge a standard prerequisite for entrance into the profession?

No. Although Krista has completed a four-year specialized academic degree in a culinary arts program, that degree is not a prerequisite for a position as a line cook.

4. Is the employee paid on a salary or fee basis equal to or greater than the required salary threshold?

Yes. Krista is paid a yearly salary of \$55,000. Since the employer has less than 51 employees, the projected state salary threshold is \$975 per week in 2022. Krista has a calculated weekly salary of \$1,057.69 per week, which is more than the projected required salary threshold.

Probable finding

Based on the information above, Krista does not likely meet the requirements to be classified as an exempt learned professional employee. If other information is presented throughout the course of an investigation, an employee's exemption status determination could change.

Professional exemption (creative)

Example 2

Ed is a writer for Blaze 102.4 radio station and makes \$59,000 annually. There are 40 full-time employees at the station and Ed's job is to come up with funny skits and material for their daily comedy hour.

Ed does not mind being the brains in the background because he loves to write and see his material come to life. Ever since they have hired a new radio announcer, Kenny, Ed has noticed that his work is slowly changing. Lately, his boss has given Ed more behind-the-scenes work, giving station identification and time signals and occasionally announcing guests for their interview segment. Ed notices that Kenny likes to write and use his own material. Ed boss tells him "just go with the flow" and now he only writes material every now and then, which hardly ever gets used.

Ed is confused because he knows that he is overtime exempt, but feels like he isn't performing exempt work anymore. His complaint is for July-September 2024.

Case analysis

1. Is the employee's primary duty the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor?

No. While Ed performed exempt duties when he was first hired, by writing creative content for the radio station, his duties eventually changed into announcing the names of programs and similar routine, nonexempt work. The artistic work he previously performed writing material for the radio announcers became an occasional part of his job duties.

2. Is the employee paid on a salary or fee basis equal to or greater than the required salary threshold?

No. Ed is paid a yearly salary of \$59,000. Since the employer has less than 51 employees, the projected state salary threshold is \$1,137 per week in 2024. Ed has a calculated weekly salary of \$1,134.62, which is less than the projected required salary threshold.

Probable finding

Based on the information above, Ed does not likely meet the requirements to be classified as an exempt creative professional employee. If other information is presented throughout the course of an investigation, an employee's exemption status determination could change.

Professional exemption (medicine)

Example 3

Dr. Lisa Davis works as medical resident intern for a busy dermatology clinic in her area and is paid \$3,200 bi-weekly regardless of the hours she works. She started the internship program one month after she graduated with her medical degree in clinical dermatology.

Even though she is happy to have gotten a job so soon, she is overly stressed because the doctor has been working her 14-hour days without giving her any breaks. He is known in the office for being a no-nonsense workaholic, but often she doesn't even have time to spend with her family. Lisa doesn't want to complain because this is the only doctor in her area that was willing to hire her, despite her being unlicensed. Although Lisa doesn't say anything to her employer, she soon starts applying for other jobs and months later gets hired on at a smaller clinic. Even though it is further away from her home and pays less money, she feels more at ease.

Lisa starts to realize that perhaps some of the practices her previous employer has are unlawful and thinks that she may be owed a bunch of overtime. She submits a complaint to L&I. Her complaint is for October 2020-January 2021.

Case analysis

1. Is the employee a practicing physician or medical professional with a scope of practice similar to a physician?

Yes. Lisa has received her academic degree for the general practice of medicine and is engaged in an internship program actively practicing her profession. She does not need to be licensed before she enters the internship program to be exempt.

Probable finding

Based on the information above, Lisa likely meets the requirements to be classified as an exempt medicine professional employee. If other information is presented throughout the course of an investigation, an employee's exemption status determination could change.



Professional exemption (law)

Example 4

Mario was working as a licensed paralegal in California before he and his family had to move unexpectedly to Washington State. Because he needed a job quickly, he decided to take a temporary paralegal position in a law office nearby.

The attorney he works for, George, explained to Mario on his first day that his position is considered overtime exempt in Washington State. Mario did not pay it any mind at that time since he was just happy to find a job at all.

Four months on the job and Mario's temporary position is almost ending and he still hasn't found a new job. He is looking at case law and citations for employees that have sued their past employers for unpaid overtime and decides to look more into Washington State's overtime requirements as they apply to him. After surfing the L&I website, he decides to call L&I to get more information. Upon explaining his situation to an industrial relations agent, he is told that they can't make a formal determination unless he enters his complaint but normally only practicing lawyers are classified as exempt law professionals.

Mario is angry that his employer has probably lied to him so he decides to file a complaint for unpaid overtime.

Case analysis

1. Is the employee a practicing lawyer?

No. Although Mario is working on legal matters, he is a paralegal and is not trained and licensed as a lawyer.

Probable finding

Based on the information above, Mario does not likely meet the requirements to be classified as an exempt law professional employee. If other information is presented throughout the course of an investigation, an employee's exemption status determination could change.

Professional exemption (teacher)

Example 5

Chris loves his job as a daycare teacher. He enjoys getting to interact with the kids he takes care of. Some of his main duties include helping the kids with finger painting, show-and-tell, and playtime. Chris' favorite activity is when they all go to naptime. In between cleaning up sticky tables and putting Band-Aids on "ow-ies", he tries to spend some time teaching the kids to sing their ABCs. The main event is every Friday, when he puts on a fun costume and sings an educational song about days of the week

Chris finds these teaching activities really fun and is sad he only gets to do them a few times a week. However, working around kids comes at a cost, as the cute little sneezes and coughs soon leaves him feeling ill. Last week, he tried to call out sick but was told that there is no one to cover him last minute. Chris was confused, since he thought he had the right to paid sick leave. He states, "I did four years for my bachelor's degree in teaching, the least they can do is give me a day off."

Chris feels he deserves better, especially for only making a salary of \$35,000 a year in 2020. Chris submits an L&I complaint in October of 2020.

Case analysis

1. Is the employee a teacher or related professional whose primary duty is teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge in an educational establishment?

No. While Chris does incorporate some aspects of teaching and instructing in his day-to-day activities, his primary duty is to provide custodial care for the basic physical needs of the children attending as opposed to teaching in the efforts to impart knowledge.

2. Is the employee compensated on a salary or fee basis?

Yes. Chris makes a salary of \$35,000 a year.

Probable finding

Based on the information above, Chris does not likely meet the requirements to be classified as an exempt teaching professional. If other information is presented throughout the course of an investigation, an employee's exemption status determination could change.