



**ADMINISTRATIVE POLICY**  
**STATE OF WASHINGTON**  
**DEPARTMENT OF LABOR AND INDUSTRIES**  
**EMPLOYMENT STANDARDS**

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<b>TITLE:</b>	<b>MINIMUM HOURLY WAGE</b>	<b>NUMBER:</b>	<b>ES.A.3</b>
<b>CHAPTER:</b>	<a href="#">RCW 49.46.020</a> <a href="#">WAC 296-126</a> <a href="#">WAC 296-125</a> <a href="#">WAC 296-131</a>	<b>REPLACES:</b>	<b>ES-008</b>
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ADMINISTRATIVE POLICY DISCLAIMER

This policy is designed to provide general information in regard to the current opinions of the Department of Labor & Industries on the subject matter covered. This policy is intended as a guide in the interpretation and application of the relevant statutes, regulations, and policies, and may not be applicable to all situations. This policy does not replace applicable RCW or WAC standards. If additional clarification is required, the Program Manager for Employment Standards should be consulted.

This document is effective as of the date of print and supersedes all previous interpretations and guidelines. Changes may occur after the date of print due to subsequent legislation, administrative rule, or judicial proceedings. The user is encouraged to notify the Program Manager to provide or receive updated information. This document will remain in effect until rescinded, modified, or withdrawn by the Director or his or her designee.

This policy provides guidance on the Washington state minimum wage, per RCW 49.46. The guidance includes information on minimum wage rates, exemptions, and determinations.

### 1. Minimum Wage Adjustments.

Each year on September 30, the Department of Labor and Industries calculates an adjusted minimum wage rate to maintain employee purchasing power by increasing the current year's minimum wage rate by the rate of inflation. The adjusted minimum wage rate is calculated to the nearest cent using the consumer price index for urban wage earners and clerical workers (CPI-W), for the twelve months prior to each September 1 as calculated by the United States Department of Labor. Each minimum wage adjustment will be published in the Washington State Register and goes into effect on the following January 1. See [RCW 49.46.020\(2\)\(b\)](#).

### 2. Minimum Hourly Wage—Adults.

Employers must pay each employee who is age 18 or older at least the minimum hourly wage established under [RCW 49.46.020](#). This includes agricultural employees, except as provided in [RCW 49.46.010\(3\)\(a\)](#).

For information on the minimum hourly wage for agricultural employees and guidance on agricultural pay, see [Administrative Policy ES.C.6.2](#), "Agricultural Labor Standards – Meal Periods, Rest Periods, and Rates of Pay."

### 3. Minimum Hourly Wage—Minors.

The department has the authority to set the minimum wage rate for minors by regulation, and did so in [WAC 296-125-043](#), [WAC 296-126-020](#), and [WAC 296-131-117](#), which state that the minimum

wage for minors 16 and 17 years of age is equal to that of adults, and the minimum wage for minors under 16 years of age is 85 percent of the applicable adult minimum wage.

#### **4. Minimum Wage Act Exemptions.**

Some employees may meet a Minimum Wage Act exemption, which would exempt them from all of the protections of the Minimum Wage Act, including needing to be paid minimum wage. See [RCW 49.46.010\(3\)](#) for the full list of Minimum Wage Act exemptions. See Administrative Policies [ES.A.9.2-ES.A.9.7](#) for additional information on the executive, administrative, professional, computer professional, and outside sales exemptions of the Minimum Wage Act.

#### **5. Determining Whether an Employee has Been Paid the Minimum Wage.**

In order to determine whether an employee has been paid the statutory minimum hourly wage when the employee is compensated on other than an hourly basis, the following standards should be used:

**5.1 Weekly Pay Periods.** If the pay period is weekly, the employee's total weekly compensation is divided by the total weekly hours worked (including hours over 40). Compensation must equal at least the minimum wage for each hour worked. If such compensation does not equal minimum wage, the employer must pay the difference. See Section 6 below for guidance on which payments are not counted towards the minimum wage.

**5.2 Alternative Pay Periods.** If the regular pay period is not weekly, the employee's total earnings in the pay period are divided by the total number of hours worked in that pay period. The result is the employee's hourly rate of pay. Compensation must equal minimum wage for each hour worked. If such compensation does not equal minimum wage, the employer must pay the difference.

**5.3 Commission or Piece-rate Basis.** For non-agricultural employees paid on a commission or piece-rate basis, wholly or in part, other than those employed in bona fide outside sales positions, the commission or piece-rate earnings earned in each workweek are credited toward the total wage for the pay period. The total wage for that period is determined by dividing the total earnings by the total hours worked; the result must be at least the applicable minimum wage for each hour worked. See [WAC 296-126-021](#). For agricultural employees who are subject to the Minimum Wage Act and paid on a piece-rate basis, wholly or in part, see Administrative Policy [ES.C.6.2](#), "Agricultural Labor Standards- Meal Periods, Rest Periods, and Rates of Pay."

**5.4 Meal Periods.** Meal periods are considered hours worked if the employee is required to remain on duty or on the employer's premises at the employer's direction subject to call. In such cases, the meal period counts toward total number of hours worked and must be included in the minimum wage determination.

**5.5 Total Earnings.** "Total earnings" includes all compensation received for hours worked in the pay period, as well as any additional payments, e.g., split-shift bonuses or stand-by pay. See Section 6 below for guidance on which payments are not counted towards the minimum wage.

See Administrative Policies [ES.A.8.1](#) and [ES.A.8.2](#) for overtime calculations for payment of other than a single hourly rate.

## **6. Payments Not Included in the Minimum Wage Determination.**

Vacation pay, paid sick leave, holiday pay, and other employer-paid benefits are not included when calculating whether an employee has been paid the statutory minimum hourly wage.

Gratuities, tips, or service charges are also not considered when calculating the minimum wage and may not count towards the employee's hourly minimum wage. See [RCW 49.46.020\(3\)](#) and Administrative Policy [ES.A.12](#), "Tips, Gratuities, and Service Charges."

## **7. Retaliation Protections.**

An employer may not discriminate or retaliate against an employee for their exercise of any minimum hourly wage rights, see [RCW 49.46.210 \(4\)](#) and [WAC 296-128-770](#), [-780](#), [-790](#), [-800](#).