

L&I has updated the job duties tests required for workers to be considered exempt from overtime, paid sick leave, and other protections under the State Minimum Wage Act. The updates reduce the number of duties tests for each exemption category from two to one, and align the tests more closely with federal standards. These updated job duties tests will take effect July 1, 2020.

For an employer to determine if a worker is exempt from Minimum Wage Act requirements, the employer must make sure the worker meets each element of the job duties test. Below is an overview of the professional duties test and key terms employers should know.

The duties test

This test can help determine whether an employee is exempt from overtime pay, paid sick leave, and other requirements. In general, when an employee does professional work and does all of the following, then overtime and paid sick leave aren't required. The employee:

- Has a **primary duty** that either:
 - a. Requires advanced knowledge in an intellectual field such as science, law, medicine, theology, accounting, or math, that the employee gets from lengthy specialized instruction (such as a graduate degree, or a specialized certification like a certified public accountant). The work must regularly require the worker to use their discretion and judgment, and cannot be routine or physical. (Typical examples may include registered nurses, accountants, actuaries, engineers, architects, pharmacists, or registered or certified medical technologists who completed AMA- or CME-approved professional coursework).
 - b. Involves doing creative or artistic work that requires invention, imagination, originality, or talent. (Examples may include work in fields such as music, writing, acting and graphic arts).
- Is paid on a **salary or fee basis**, and the amount of the salary or fee is equal to or greater than the required threshold.

An employee can also meet the professional exemption if the employee works as a teacher in an **educational establishment**, and is paid on a salary or fee basis (there is no minimum salary threshold for teachers). Examples of teachers who may be exempt include regular academic teachers, teachers of kindergarten or nursery school pupils, teachers of skilled and semiskilled trades, aircraft flight instructors, home economics teachers, and vocal or instrumental music instructors. Teachers paid on an hourly basis, such as some paraeducators, are not exempt.

An employee can also meet the professional exemption if the employee is a practicing lawyer, doctor, or medical resident. The minimum salary threshold doesn't apply to law or medicine professionals.

Note: An employee's actual job duties, not job title or job description, determine if the employee meets the professional exemption requirements.

The full professional duties test requirements can be found in [WAC 296-128-530](#).

Key terms

Primary duty: The main, major, or most important duty an employee performs. An employee's primary duty might be the biggest or most consequential responsibility, or it could be the duty the employee spends the most time on.

Educational establishment: An elementary or secondary (such as a middle school, junior high, or high school) school, an institution of higher education (such as a college or university), or other similar educational institutions.

Salary or fee basis: A predetermined and fixed salary that is not subject to reduction because of variations in the quality or quantity of work performed, or a set fee for a unique job or project regardless of the time required to complete the job.

For more info

You can call Employment Standards at 360-902-5316 or 1-886-219-7321.

L&I overtime rule change webpage: [Lmi.wa.gov/OvertimeRulemaking](https://lmi.wa.gov/OvertimeRulemaking)

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