



The Episcopal Diocese of Olympia

The Episcopal Church in Western Washington

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Overtime Rule Changes for 2021

Overtime Rule Changes

New salary thresholds are among the changes to the state's overtime rules.

What you need to know

- The changes affect the exemptions for executive, administrative, and professional employees.
- The state salary thresholds for exempt Washington employees will increase on January 1, 2021.
- In addition to meeting the salary requirements, employees must also meet the job duties test in order to be exempt from overtime and other Minimum Wage Act protections.

About the FLSA (Fair Labor Standards Act) and WMWA (Washington Minimum Wage Act)

The Fair Labor Standards Act (FLSA) and Washington Minimum Wage Act (WMWA) establish minimum standards that may be exceeded but cannot be waived or reduced. The FLSA is federal law; the WMWA is state law. When state laws differ from the federal FLSA, an employer must comply with the standard most generous to employees. Since the new, higher state salary threshold for overtime exemption under WMWA will be more generous than the FLSA salary threshold as of January 1, 2021, the WMWA threshold will be applied.

FLSA and WMWA requirements

The FLSA and WMWA require that most workers receive a minimum overtime pay of 1.5 times the employee's regular pay rate for all hours worked over 40 hours in a seven-day workweek. Positions that are covered by FLSA and WMWA overtime regulations are "non-exempt" also called "overtime eligible." Only positions that meet certain narrowly defined criteria are exempt from the FLSA and WMWA's overtime requirements. The amount of compensation determines the overtime status for all staff positions.

Changes effective January 1, 2021

Effective January 1, 2021 under the WMWA, the minimum actual gross salary a position can be paid and still remain overtime exempt will increase from \$684 per week to \$821 per week (\$42,713 per year or \$3,559 per month). As a result, staff whose compensation does not meet the new, higher weekly salary threshold must be changed to overtime eligible. This is still particularly true of part-time positions, since the \$821 per week threshold applies regardless of whether a

position is part-time or full-time. For example, a professional staff employee with a full-time equivalent salary of \$85,000 who works half time, would have a weekly salary of \$817, below \$821 per week, and would be overtime eligible.

Examples & Notes:

- Is the employee overtime (OT) exempt? Maybe. It depends on their FTE (full time equivalency).
- Would the employee pass or fail the WMWA salary threshold to be OT exempt? Take a look at the chart below for examples utilizing amounts from our clergy salary scale.
- Full time equivalent rate needed for 50% FTE to be OT exempt: \$85,426.
- Based on clergy salary scale minimum of Grade E, clergy person working at least 66% time and earning \$42,730 would meet the salary threshold to be OT exempt.
- See additional examples next page.

<i>WMWA Threshold</i>	<i>\$42,713 (annualized)</i>	<i>\$42,713 (annualized)</i>
	100% FTE	50% FTE
Full time equivalent salary: \$85,000	Actual Salary: \$85,000	Actual Salary: \$42,500
Pass / Fail?	PASS	FAIL
Clergy salary scale: Grade E minimum	Actual salary: \$64,742	Actual Salary: \$32,371
Pass / Fail?	PASS	FAIL
Clergy salary scale: Grade D minimum	Actual salary: \$71,129	Actual Salary: \$35,565
Pass / Fail?	PASS	FAIL
Clergy salary scale: Grade C minimum	Actual salary: \$78,229	Actual Salary: \$39,115
Pass / Fail?	PASS	FAIL
Clergy salary scale: Grade B minimum	Actual salary: \$86,067	Actual Salary: \$43,034
Pass / Fail?	PASS	PASS
Clergy salary scale: Grade A minimum	Actual salary: \$94,676	Actual Salary: \$47,338
Pass / Fail?	PASS	PASS
Clergy salary scale: Grade E mid-point	Actual salary: \$80,928	Actual Salary: \$40,464
Pass / Fail?	PASS	FAIL
Clergy salary scale: Grade D mid-point	Actual salary: 88,911	Actual Salary: \$44,456
Pass / Fail?	PASS	PASS

Clergy salary scale: Grade C mid-point	Actual salary: 97,786	Actual Salary: \$48,893
Pass / Fail?	PASS	PASS
Clergy salary scale: Grade B mid-point	Actual salary: \$107,584	Actual Salary: \$53,792
Pass / Fail?	PASS	PASS
Clergy salary scale: Grade A mid-point	Actual salary: 118,345	Actual Salary: \$59,173
Pass / Fail?	PASS	PASS

LOA/Hire Letter language: salaried clergy or lay positions – if annualized salary is under the salary threshold of \$42,713 consider adding under Compensation: *Annualized salary \$_____; part-time, overtime eligible (non-exempt). As a part time salaried employee, employee is paid a salary for all hours worked in a week. Although employee is a salaried employee, employee will need to track hours. A variance in hours from week to week is not compensable for extra hours, nor will any amount be deducted for working less than the hours expected. If, with permission of the supervisor, employee works over 40 hours in a week employee will be compensated for the hours worked over 40 hours with an additional 50% of weekly salary for the percentage of time worked. If, on the rare occasion, employee is expected to manage/attend a week-long program, additional compensation over and above salary may be considered.*

The January 1, 2021, change mentioned above is one of a series of changes in the overtime threshold for employees who work in Washington State. These changes are required by a change in Washington State overtime law that sets salary thresholds at the state level which increase each year on January 1 until January 1, 2028, when the state threshold reaches 2.5 times the Washington State minimum wage. From that point on, the state threshold will increase annually each January 1 based on inflation by the same percentage that the Washington State minimum wage does. To be exempt from FLSA and WMWA overtime regulations, a position's salary amount and job duties must meet criteria specified in the regulations. These criteria are referred to as the "salary basis" and "duties" tests, respectively.

FLSA and WMWA exemption categories and checklists

The following are summaries of the FLSA- and WMWA-defined exemption criteria. Checklists for the most commonly applied exemption criteria may be used to help employees and supervisors assess whether a position is likely to be covered by or exempt from the FLSA and WMWA overtime regulations. These are also known as "duties tests." The duties tests under the WMWA parallel those under the FLSA. A link to the checklist follows the exemption category description. Some terms have special meanings as applied by the FLSA and WMWA regulations. See the FLSA Terms & Definitions webpage.

The exemption categories are described below. Checklists to complete if you are unsure if the position is exempt or non-exempt (overtime eligible) are available by contacting Canon Dede Moore.

Executive Exemption

To qualify for the executive exemption, **ALL** of the following tests must be met:

- For 2021, the employee must be compensated on a salary basis (as defined in the regulations) at a rate not less than \$821.40 per week (\$42,713 per year or \$3,559 per month);
- The employee's primary duty must be managing the enterprise, or managing a customarily recognized department or subdivision of the enterprise;
- The employee must customarily and regularly direct the work of at least two or more other full-time employees or their equivalent; and
- The employee must have the authority to hire or fire other employees, or the employee's suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees must be given particular weight.

Administrative exemption

To qualify for the administrative exemption, **ALL** of the following tests must be met:

- For 2021, the employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$821.40 per week (\$42,713 per year or \$3,559 per month).
- The employee's primary function must be to perform office or non-manual work that is directly related to the management or general business operations of the employer or the employer's customers; and
- The employee's primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

Learned or creative professional exemption

To qualify for the learned professional exemption, **ALL** of the following tests must be met:

- For 2021, the employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$821.40 per week (\$42,713 per year or \$3,559 per month);
- The employee's primary duty must be to perform work requiring advanced knowledge, defined as work which is predominantly intellectual in character and which requires the consistent exercise of discretion and judgment (this includes theology);
- The advanced knowledge must be in a field of science or learning, such as law, medicine, nursing, accounting, actuarial computation, engineering, education, and various types of physical, chemical, and biological sciences; and

- The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

To qualify for the creative professional exemption, ALL of the following tests must be met:

- For 2021, the employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$821.40 per week (\$42,713 per year or \$3,559 per month);
- The employee's primary duty must be to perform work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor, such as music, writing, acting, and the graphic arts.