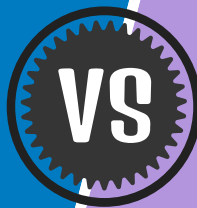


## EXCEPTION



## NO EXCEPTION



# EXCEPTIONS TO CALIFORNIA'S WAGE, HOUR, BREAK, AND OVERTIME LAWS

Some employees fall outside California's overtime, minimum wage, and break rules. This guide explains the salary and duties tests that decide who is exempt, and what happens when employers get the classification wrong.

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## BY KYLE D. SMITH

Kyle D. Smith is a California employment lawyer and the author of the articles on WorkLawyers.com. He represents employees in disputes with their employers, from unpaid wages and misclassification to wrongful termination.

He writes these guides to put the state's labor laws into plain English, in neutral terms, with a citation for every claim.



California labor laws require most employers to follow certain rules, like paying overtime, tracking hours, or providing rest breaks. The law, however, provides for several important exceptions to these requirements. In most cases, an employee who is subject to one or more of these exceptions is called an *exempt employee*.

There are usually three simple requirements to determine whether a worker is subject to a wage and hour exception under California law:

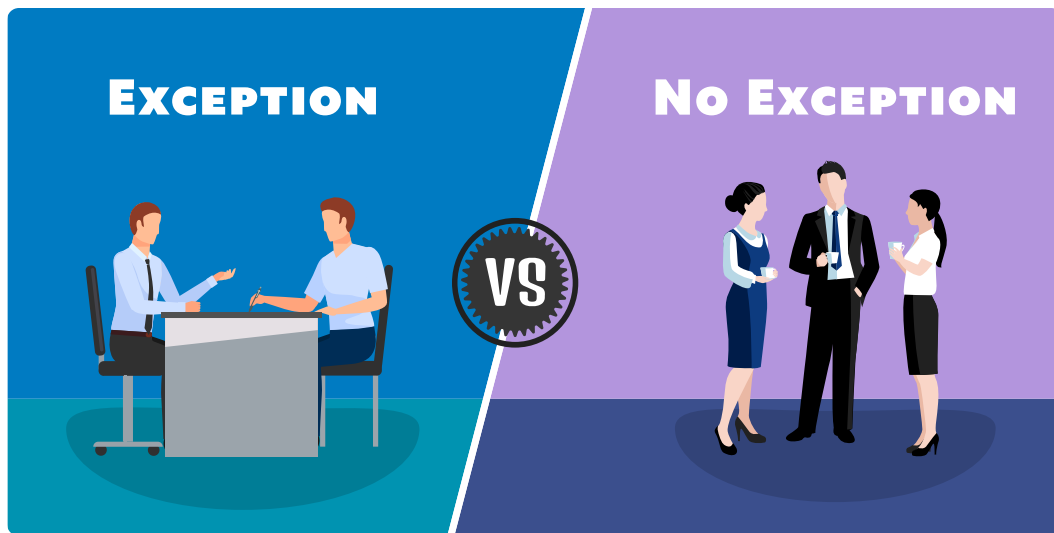
-  **Minimum Salary.** The employee must be paid a salary that is at least twice the state minimum wage for full-time employment.<sup>1</sup>
-  **White Collar Duties.** The employee's primary duties must consist of administrative, executive, or professional tasks.<sup>2</sup>
-  **Independent Judgment.** The employee's job duties must involve the use of discretion and independent judgment.<sup>3</sup>

If all three requirements are met, the employee will usually be subject to an exception to California's overtime, minimum wage, and rest break requirements (but not meal break requirements). There are, however, many caveats to this test.

There are also some jobs that are subject to a different test altogether. And some employees are only subject to some wage and hour exceptions; meaning, they are protected by certain labor laws, but not others.

The rest of this article explains these requirements in greater detail, as well as what happens when employers fail to properly classify their employees under California law.

# How Exceptions to Wage and Hour Laws Affect Employees



## 1.1 Minimum Wage Rights

Federal law requires employers to pay most employees a minimum wage of \$7.25 per hour.<sup>4</sup> Fortunately, California state law is more favorable to employees in this context. As of January 1, 2026, California employees are entitled to a minimum wage of **\$16.90** per hour.<sup>5</sup> The statewide minimum wage now adjusts every year on January 1<sup>st</sup> to account for inflation, with each annual increase capped at 3.5 percent.<sup>6</sup>

Certain cities and counties have established a minimum wage higher than the statewide minimum wage. Employees of covered fast food restaurants and covered health care facilities are also entitled to higher, industry-specific minimum wages, which are discussed later in this article.<sup>7</sup>

## 1.2 Overtime Rights

Federal law requires employers to pay most employees an overtime rate of at least one-and-one-half times their regular hourly wage for each hour worked in excess of 40 during a workweek.<sup>8</sup>

Again, California law protects employees to a greater degree than federal law, unless they are subject to an exception to California's wage and hour laws (in which case the two sets of laws are roughly equal).<sup>9</sup>

California's overtime laws require employers to pay employees that are *not* subject to wage and hour exceptions *one-and-a-half times* their regular rate of pay for:

-  All hours worked in excess of 8 in a single workday,
-  All hours worked in excess of 40 in a single workweek, and
-  The first 8 hours worked on the seventh consecutive day of work in the workweek.<sup>10</sup>

California employers are required to pay employees that are not subject to wage and hour exceptions *twice their regular rate of pay* for:

-  All hours worked in excess of 12 in a single workday, and
-  All hours worked in excess of 8 on the seventh consecutive day of work in the workweek.<sup>11</sup>

## 1.3 Meal Break Rights

Most employees in California (including most employees subject to wage and hour exceptions) are entitled to an unpaid, 30-minute *meal break* if they work more than 5 hours in a day.<sup>12</sup> A second meal break is required if employees work more than 10 hours in a day.<sup>13</sup>

Employees can agree to waive the first meal break if they do not work more than 6 hours in a day.<sup>14</sup> They can agree to waive the second meal break if they do not work more than 12 hours in a day, and the first meal break was not waived.<sup>15</sup>

During the meal break, the employee must be relieved of *all* responsibility and be free to leave the work premises. If the employee is required to remain on the employer's premises or job site, the employee must be paid for the meal break.<sup>16</sup>

When employers fail to provide an employee a meal break, they are required to pay the employee an extra one hour of pay at the employee's regular rate of compensation. This is the same rate used to compute overtime, so it includes nondiscretionary payments like certain bonuses and commissions, not just the employee's base hourly wage.<sup>17</sup> The employee may only earn one extra hour per workday for their employer's failure to provide them with missed meal breaks.<sup>18</sup>

There are some exceptions that apply to meal breaks.<sup>19</sup> But the main exceptions discussed in this article (namely, those that apply to executive, administrative, and professional employees) do *not* apply to meal breaks.<sup>20</sup>

## 1.4 Rest Break Rights

Employees in California that are not subject to wage and hour exceptions are also entitled to take a paid *10-minute rest period* during the middle of each 4-hour work period.<sup>21</sup>

Employees are *not* entitled to a rest period if they work less than 3.5 hours in the work day.<sup>22</sup>

During the rest period, the employer must relieve the employee of all duties and give up control over how the employee spends that time. Employers cannot require employees to remain on call during a rest period.<sup>23</sup>

When employers fail to provide an employee a rest period, they are required to pay the employee an extra one hour of pay at the employee's regular rate of compensation.<sup>24</sup> The employee may only earn one extra hour per workday for their employer's failure to provide them with missed rest periods.<sup>25</sup>

Employers must also provide a reasonable amount of break time to employees who wish to express breast milk for their infant children.<sup>26</sup>

Lactation breaks must be paid if they are taken during the employee's regular rest period. They do not need to be paid to the extent that they last longer than, or are in addition to, the regular rest period.<sup>27</sup>

## Determining Whether an Employee Is Subject to a Wage and Hour Exception

As mentioned above, certain employees are subject to wage and hour exceptions under the laws governing minimum wage, overtime, work hours, and rest periods.<sup>28</sup>

In California, there are usually three simple requirements to determine whether a worker is subject to one or more of these exceptions:

-  **Minimum Salary.** The employee must be paid a salary that is at least twice the state minimum wage for full-time employment.<sup>29</sup>
-  **White Collar Duties.** The employee's primary duties must consist of administrative, executive, or professional tasks.<sup>30</sup>
-  **Independent Judgment.** The employee's job duties must involve the use of discretion and independent judgment.<sup>31</sup>

In addition to this three-part test, there are several types of exceptions that apply to specific jobs. The most common job-specific exceptions apply to:

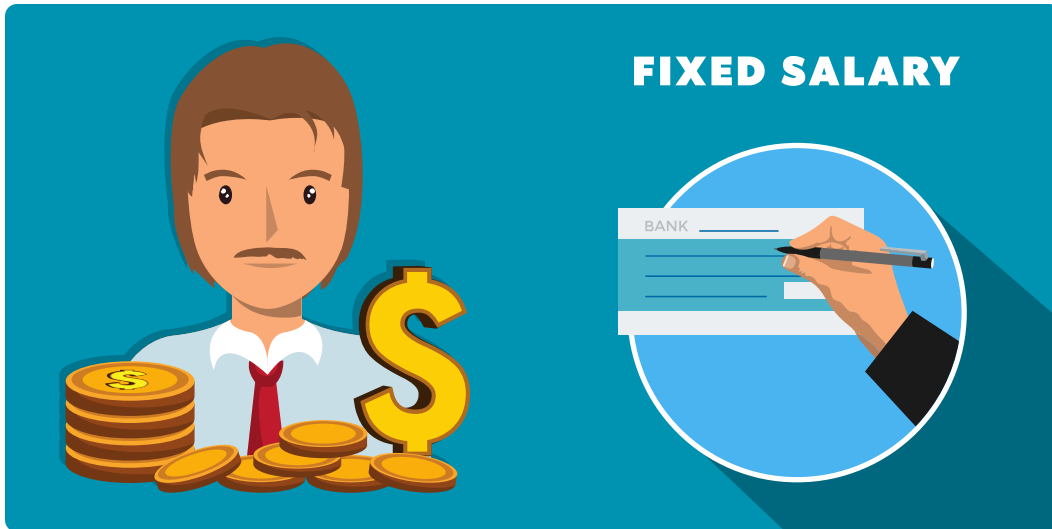
-  Commissioned employees,
-  Physicians and surgeons,
-  Computer professionals,
-  Private school teachers,
-  Outside salespersons,
-  Truck drivers, and
-  Union employees.

These job-specific exceptions have their own tests (distinct from the three-part test mentioned above). And some of them are only partially excepted from California's

wage and hour rules. Each job-specific exception is discussed in its own section below.

Importantly, employers are only entitled to claim that an exception applies when an employee “plainly and unmistakably” meets the standard required for the exception.<sup>32</sup> When doubt exists, the law generally requires the employee to be classified as a regular employee (one that is not subject to a wage and hour exception).

## The Salary Requirement



In general, an employee is only subject to a wage and hour exception if they are paid on a salary basis (rather than an hourly wage).<sup>33</sup> The salary must be at least *twice the state minimum wage* for full-time employment.<sup>34</sup>

## Minimum Annual Salary for Exempt Employees

| Applicable Year | Employers with 25 or Fewer Employees | Employers with More Than 25 Employees |
|-----------------|--------------------------------------|---------------------------------------|
| 2017            | \$41,600.00                          | \$43,680.00                           |
| 2018            | \$43,680.00                          | \$45,760.00                           |
| 2019            | \$45,760.00                          | \$49,920.00                           |
| 2020            | \$49,920.00                          | \$54,080.00                           |
| 2021            | \$54,080.00                          | \$58,240.00                           |
| 2022            | \$58,240.00                          | \$62,400.00                           |
| 2023            | \$64,480.00                          | \$64,480.00                           |
| 2024            | \$66,560.00                          | \$66,560.00                           |
| 2025            | \$68,640.00                          | \$68,640.00                           |
| 2026            | <b>\$70,304.00</b>                   | <b>\$70,304.00</b>                    |

California unified the two employer tiers in 2023, so the same minimum salary now applies to employers of every size. The current-year row updates itself from the theme's wage table.

### 3.1 “Salary” Defined

A *salary*, for these purposes, is an unvarying minimum amount of pay.<sup>35</sup> The employee’s pay must be predetermined, and cannot change based on the number of hours worked or the quality of the work performed.<sup>36</sup>

Courts have suggested that employers can deduct from an employee’s pay for *full-day* absences and still consider the employee to be paid on a salary basis.<sup>37</sup> But the employee would no longer be considered “salaried” if the employer deducted for *partial-day* absences.<sup>38</sup>

If the employee’s pay is based on the number of hours worked with no minimum guarantee, the employee will be treated as being an hourly employee (and thus not subject to these exceptions).<sup>39</sup>

### 3.2 Calculating the Minimum Salary

As mentioned above, California law requires the employee to be paid a monthly salary of at least twice the state minimum wage for full-time employment to qualify as

subject to wage and hour exceptions. For these purposes, *full-time employment* is considered 40 hours per week.<sup>40</sup>

In 2026, employees are entitled to a minimum wage of \$16.90 per hour.<sup>41</sup>

To meet the minimum *salary* requirement for exempt employees, the applicable minimum wage must be multiplied by two, and then multiplied by 40 hours per week. That gives us a weekly salary that is twice the minimum wage.

This means that the minimum salary for exempt employees in 2026 is **\$5,858.67 per month** (or \$70,304.00 annually).

$$\$16.90 \times 2 \times 40 \text{ hours} \times 52 \text{ weeks} = \$70,304.00 \text{ per year}$$

These numbers are calculated by doubling the applicable minimum wage, multiplying that amount by 40 hours per week, the result of which is then multiplied by 52 weeks and divided by 12 months. This calculation gives us a monthly salary that is equal to twice the state minimum wage for full-time employment.<sup>42</sup>

Importantly, California's minimum wage now adjusts every year on January 1<sup>st</sup> to account for inflation, with each annual increase capped at 3.5 percent.<sup>43</sup> Because the minimum salary is defined as a multiple of the minimum wage, the minimum salary for exempt employees in California will usually increase each year as well.

### 3.3 Higher Salary Requirements in Certain Industries

Two industries now have their own, higher minimum wages, and those industry minimum wages raise the salary an employee in those industries must earn before they can be treated as exempt.

Employees of covered fast food restaurants must be paid a minimum wage of at least \$20.00 per hour.<sup>44</sup> Because that rate operates as the state minimum wage for fast food restaurant employees, a salaried employee of a covered fast food restaurant generally must earn at least twice that amount, currently \$83,200.00 per year, to be classified as exempt.<sup>45</sup>

Covered health care employees are entitled to a separate, higher minimum wage, which ranges up to \$25.00 per hour depending on the type of facility.<sup>46</sup> To be classified as exempt, a salaried health care employee must earn a monthly salary of at least 150 percent of the health care worker minimum wage or 200 percent of the general state minimum wage, whichever is greater.<sup>47</sup>



#### RELATED GUIDE

### **Guide to California's Minimum Wage Laws**

How the statewide, local, and industry-specific minimum wages work, and how they change each year.

## The White Collar Duties Requirement



If the salary requirements are met, the next question is whether the employee is employed in an administrative, executive, or professional capacity.<sup>48</sup> This is sometimes called the “white collar duties” test.

To determine whether an employee is employed in an administrative, executive, or professional capacity, we look at which duties the employee actually performs, regardless of job title or how the job is defined in a position description.<sup>49</sup>

Importantly, the white collar duties test focuses on the employee’s *primary* duties. California law requires an employee to devote more than half of his or her working hours to the primary duty in order to satisfy this test.<sup>50</sup>

An employee who meets this test will be subject to wage and hour exceptions for several rights, including:

-  The right to 10-minute rest periods,
-  The right to overtime compensation, and
-  The right to a minimum wage (provided, of course, that they meet the minimum salary requirement).<sup>51</sup>

It is therefore important to carefully determine whether an employee meets all requirements of the test.

## 4.1 Administrative Employees

An employee is considered employed in an administrative capacity if their primary duty is office or nonmanual work directly related to management or general business operations.<sup>52</sup>

Work *relates* to management or general business operations when the employee assists in running the business.<sup>53</sup>

Secretaries, store clerks, bookkeepers, and lead operators on production lines cannot be classified as administrative employees because they do not help run the business.

Examples of duties that relate to management or general business operations include responsibility for marketing, research, budgeting, finance, accounting, purchasing, quality control, human resources, labor or government relations, regulatory compliance, and database administration.<sup>54</sup>

## 4.2 Executive Employees

An employee is considered employed in an executive capacity when:



Their primary duty is the management of a business or one of its departments;



They regularly direct the work of two or more other employees; and



They have the authority to hire and fire employees, or to make recommendations about hiring, firing, promotions, and wages that are given particular weight.<sup>55</sup>

Management includes such activities as hiring, firing, training, supervising, and disciplining employees; making work assignments; resolving employee grievances; maintaining production or sales records; ordering materials or inventory; and planning a budget.<sup>56</sup>

Executive employees receive little direct supervision.

## 4.3 Professional Employees

There are three types of professional employees that can qualify for wage and hour exceptions:

-  **Licensed Professionals.** People who are licensed or certified by the State of California and are primarily engaged in the practice of: law, medicine, dentistry, optometry, architecture, engineering, teaching,<sup>57</sup> or accounting.<sup>58</sup>
-  **Learned Professionals.** People who have advanced knowledge in a field of science or learning that is customarily acquired by prolonged and specialized study.<sup>59</sup>
-  **Creative Professionals.** People who focus on invention, imagination, originality, or talent in a recognized field that is artistic or creative.<sup>60</sup>

The professional employee exception is fact-specific and depends on the nature of the work that the employee primarily undertakes.

Of note, registered nurses who are employed to engage in the practice of nursing are not professionals under this exception, but they might still be subject to a different exception (like the administrative exception or the executive exception).<sup>61</sup>

## The Discretion and Independent Judgment Requirement



To be treated as exempt for the purposes of California's wage and hour laws, California's Labor Code requires the worker to regularly exercise *discretion and independent judgment* in performing their duties.<sup>62</sup>

An employee exercises discretion and independent judgment when the employee makes and implements important choices after considering competing courses of action.<sup>63</sup>

An employee's judgment is *independent* when it is free from immediate direction or supervision, even if an employee who is higher in the management chain has the authority to override the decision.<sup>64</sup>

## Job-Specific Exceptions



In addition to the main exceptions explained above, a handful of other occupations are subject to exceptions to some or all of California's labor laws. The more common exceptions are discussed below.

### 6.1 Commissioned Employees

Employees who are paid on a commission basis are sometimes subject to an overtime exception in California. To qualify for this exception, the following requirements must be met:

- ✍ The employee's earnings are more than one-and-a-half times the minimum wage.
- ✍ Commission payments constitute more than half of the employee's total compensation.
- ✍ They work in either: the retail industry, or a professional, technical, or clerical occupation.<sup>65</sup>

*Commissions* are wage payments that an employee is entitled to as a result of sales they make. In a commission-based arrangement, the size of the employee's compensation depends on the amount or value of the thing that was sold.<sup>66</sup>

A discretionary payment that an employer can choose to pay or withhold, such as a performance bonus, is *not* a commission even if it is computed as a percentage of sales or profits.<sup>67</sup>

## 6.2 Physicians and Surgeons

Licensed physicians and surgeons are sometimes subject to an exception to California's *overtime* compensation rules. To fall under this exception, the physician or surgeon must:

-  Be paid at an hourly rate of at least \$107.17 per hour.<sup>68</sup>
-  Perform, as their primary duties, tasks that require them to be licensed.<sup>69</sup>

The applicability of this exception is limited. Medical interns and residents do not qualify. Nor do physicians covered by certain types of collective bargaining agreements.<sup>70</sup>

## 6.3 Computer Professionals

Employees in the computer software field are sometimes excepted for the purposes of *overtime* compensation.<sup>71</sup> To qualify for this exception, the following requirements must be met:

-  The employee must be primarily engaged in work that is intellectual or creative.<sup>72</sup>
-  The employee's primary duties must require the exercise of discretion and independent judgment.<sup>73</sup>
-  The employee must be highly skilled in a field of computer systems analysis, programming, or software engineering.<sup>74</sup>
-  The employee's primary duties must involve designing or developing computer hardware or software.<sup>75</sup>
-  If the employee is paid hourly, they must earn at least \$58.85 per hour.<sup>76</sup>



If the employee is paid a salary, they must earn at least \$122,573.13 per year, paid at least once a month in an amount of no less than \$10,214.44.<sup>77</sup>

## 6.4 Private School Teachers

Many teachers are subject to a wage and hour exception under the *professional* exception described above. But teachers at private schools can be excepted from California's overtime laws under a separate test, even if they don't meet those requirements. Instead, a private school teacher is not entitled to overtime if:



They teach at a private elementary or secondary academic institution serving pupils in kindergarten or any of grades 1 through 12,<sup>78</sup>



They are primarily engaged in imparting knowledge to pupils by teaching, instructing, or lecturing,<sup>79</sup>



They customarily and regularly exercise discretion and independent judgment in performing the duties of a teacher,<sup>80</sup>



They earn the greater of: 100 percent of the lowest salary offered by any California school district to a credentialed teacher, or the equivalent of at least 70 percent of the lowest schedule salary offered to a credentialed teacher by the school district or county office of education in which the private school is located,<sup>81</sup> and



They hold a baccalaureate degree (or higher) from an accredited institution of higher education, or they currently meet the requirements established by the California Commission on Teacher Credentialing (or the equivalent certification authority in another state) for obtaining a teaching credential.<sup>82</sup>

This exception does not extend to tutors, teaching assistants, instructional aides, student teachers, day care providers, vocational instructors, or other similar employees.<sup>83</sup>

## 6.5 Outside Salespersons

Employees who are considered “outside salespersons” are generally considered subject to a wage and hour exception.<sup>84</sup> An *outside salesperson* is defined as someone:



Who is at least 18 years old,

-  Who spends more than half of their working time away from their employer's place of business, and
-  Who sells items, services, contracts, or the use of facilities.<sup>85</sup>

## 6.6 Truck Drivers

Some truck drivers are excepted from California's overtime laws.<sup>86</sup> This exception applies to interstate truck drivers and drivers who transport hazardous materials.<sup>87</sup>

In those situations, the drivers' hours are controlled by either: federal regulations,<sup>88</sup> or California's motor vehicle regulations.<sup>89</sup>

Federal law also limits these drivers' break rights. Since the end of 2018, federal regulators have taken the position that California's meal and rest break rules cannot be enforced against drivers of property-carrying commercial motor vehicles who are subject to the federal hours-of-service regulations, and the courts have upheld that determination.<sup>90</sup> These drivers generally remain entitled to California's other employment rights, like the minimum wage.

## 6.7 Union Employees

Union employees are sometimes excepted from California's overtime laws.<sup>91</sup> To qualify for this exception, the employees must be employed under a collective bargaining agreement that expressly provides for the wages, hours of work, and working conditions of the employees.<sup>92</sup>

The collective bargaining agreement must also provide premium wage rates for all overtime hours worked and a regular hourly rate of pay of at least 30 percent more than the state minimum wage.<sup>93</sup>

## 6.8 Other Job-Specific Exceptions

California law is governed, in part, by a series of regulations called *wage orders*, which have been issued by California's Industrial Welfare Commission.<sup>94</sup> The wage orders have adopted several exceptions to California's overtime laws, in addition to those listed above, that apply to workers in specific industries or jobs. Occupations to which special overtime rules apply include:

-  Live-in household employees;<sup>95</sup>

-  Personal attendants;<sup>96</sup>
-  Camp counselors;<sup>97</sup>
-  Managers of homes for the aged;<sup>98</sup>
-  Certain providers of 24-hour residential childcare;<sup>99</sup>
-  Ambulance drivers and attendants;<sup>100</sup>
-  Agricultural occupations;<sup>101</sup> and
-  The employer's spouse, children, and parents.<sup>102</sup>

## Consequences of Misclassification

 Employment attorney explaining the consequences of misclassifying employees

California courts narrowly construe the exceptions explained above. The employee must “plainly and unmistakably” meet the standard required for the exception.<sup>103</sup> Otherwise, the employee should be classified as *not* subject to a wage and hour exception.

This standard strongly favors the employee, and the employer has the legal burden of proving an exception.<sup>104</sup> When employers fail to properly treat their employees as required by law, the consequences can be severe.

California law provides for a variety of penalties for Labor Code violations. Some of the most common examples are below.

### 7.1 Unpaid Overtime

Normal (non-exempt) employees in California have a right to be paid overtime wages when they work more than eight hours in a workday, 40 hours in a work week, or seven consecutive days.<sup>105</sup> When employers misclassify their employees as *exempt*, they often fail to pay the employee overtime wages.

Employees who have been deprived of overtime pay because of a misclassification can seek back-pay for the unpaid overtime wages the employee earned.<sup>106</sup> These can add up quickly, even for employees earning a low amount.

Additionally, the employer may be obligated to pay the legal costs and attorney fees that the employee incurred while pursuing their overtime wages.<sup>107</sup>

In some cases, there may also be a penalty of \$100 or \$200 per pay period in which California's overtime laws were violated.<sup>108</sup> The employee can recover this penalty for themselves through a wage claim with the Labor Commissioner, or they can pursue it as a civil penalty in a lawsuit under the Private Attorneys General Act (but not both for the same violation).<sup>109</sup> When the penalty is recovered under the Private Attorneys General Act, 35 percent of it is distributed to the affected employees and the rest goes to the State of California.<sup>110</sup>

## 7.2 Rest Break and Meal Period Penalties

Normal (non-exempt) employees are entitled to meal breaks and rest periods.<sup>111</sup> Employers who misclassify their employees as *exempt* commonly fail to provide the required breaks.

When an employee misses a meal period or rest break, they are entitled to *one extra hour of pay* at the employee's regular rate of compensation.<sup>112</sup>

If the employee misses multiple rest breaks or meal periods, they can earn up to one extra hour *per workday* for their missed rest periods and an additional one hour *per workday* for their missed meal breaks.<sup>113</sup>

Thus, a twelve-hour shift with no rest or meal breaks will entitle the employee to two extra hours of pay at the employee's regular rate of compensation.<sup>114</sup>

These premium payments are themselves *wages*. They must be reported on the employee's pay stubs and paid on time when the employment ends. If they aren't, the employer can also owe the pay stub and waiting time penalties discussed below.<sup>115</sup>

## 7.3 Pay Stub Penalties

If the employer failed to keep proper records of the employee's work, the employer may be obligated to pay the employee a pay stub penalty.<sup>116</sup> The amount of the penalty depends on the number of pay periods that the violation lasted.

For the first pay stub violation, the employee is entitled to a \$50 penalty.<sup>117</sup> The employee is then entitled to a penalty of \$100 per pay period for every violation after that, up to \$4,000.<sup>118</sup>

To recover these penalties, the employee must show that the employer's failure was "knowing and intentional." An employer that reasonably and in good faith believed it was providing complete and accurate pay stubs, even if it was mistaken, will not owe them.<sup>119</sup>

This penalty often arises when the employee isn't sure how much back-pay they might be owed because the employer mistakenly classified the employee as excepted from one or more of California's labor laws.

## 7.4 **Waiting Time Penalties**

When an employer willfully fails to pay an employee's wages on-time as required by the Labor Code, they can be subject to a waiting time penalty. If an employee has been deprived of their full pay due to being misclassified under an exception to California's wage and hour laws, they are sometimes entitled to receive this.

Specifically, a delayed payment can result in a penalty of up to 30 days of the employee's wages.<sup>120</sup> The unpaid wages accrue on a daily basis, including on non-workdays, not just on the days that the employee would have worked.

## What to Do If You've Been Misclassified



Employees who have been improperly classified under an exception described above have three basic options:

-  Resolve their dispute informally with their employer,
-  File a lawsuit in court, or
-  File a wage claim with California's Division of Labor Standards Enforcement (the "DLSE"), also known as the Labor Commissioner's Office.<sup>121</sup>

The best way to resolve an exception dispute will depend on the employee's specific situation. It's usually a good idea to get the opinion of a lawyer before deciding how to proceed.

Employees should keep in mind, however, that there are strict deadlines they need to meet to file a wage claim or lawsuit.

## 8.1 Deadlines to File Claims

Employees usually have **three years** in which to make a wage claim under California law.<sup>122</sup>

The clock begins to run at the time the wages first become legally due. Usually, wages first become due on the regular payday for the pay period in which the employee performed the work.<sup>123</sup>

When the work is continuing and the employee is paid periodically (e.g., weekly or monthly) a separate and distinct cause of action accrues on each payday, triggering on each occasion the running of a new period of limitations.<sup>124</sup>

## 8.2 Exceptions to These Deadlines

Employees wishing to pursue certain types of claims may face a shorter deadline. A claim for the breach of an oral contract must be filed within **two years**.<sup>125</sup>

A claim seeking statutory penalties may also face a short deadline. The law is somewhat unsettled, but some penalties for the late payment of wages may be subject to a **one-year** statute of limitations.<sup>126</sup> Other penalties, however, are subject to the normal **three-year** statute of limitations.<sup>127</sup>

In some cases, a claim for unpaid wages (but not penalties) can be pursued as late as **four years** after the claim began to accrue. To take advantage of this longer statute of limitations, the employee must be filing their claim based on a breach of a written contract.<sup>128</sup>

Alternatively, the employee might be able to claim the failure to pay their wages was an unlawful business practice under California's Unfair Competition Law.<sup>129</sup> This is sometimes another way for an employee to access a four-year statute of limitations, but the remedies can be limited.<sup>130</sup>

## 8.3 Federal Cases

Employees can usually seek back pay for overtime wages earned during the **two years** prior to making a wage claim. Federal law extends that time to three years if the misclassification was willful.<sup>131</sup>

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## References

- 1 Labor Code, § 515, subd. (a); Cal. Code of Regs., tit. 8, § 11040 [providing that, for each exempt category, the employee must earn “a monthly salary equivalent to no less than two (2) times the state minimum wage for full-time employment”].
- 2 Labor Code, § 515, subd. (a) [“The Industrial Welfare Commission may establish exemptions from the requirement that an overtime rate of compensation be paid pursuant to Sections 510 and 511 for executive, administrative, and professional employees, if the employee is primarily engaged in the duties that meet the test of the exemption, customarily and regularly exercises discretion and independent judgment in performing those duties, and earns a monthly salary equivalent to no less than two times the state minimum wage for full-time employment.”].
- 3 Labor Code, § 515, subd. (a) [requiring employees to “customarily and regularly exercise[] discretion and independent judgment in performing” the duties of their job].
- 4 29 U.S.C. § 206(a)(1)(C).
- 5 Labor Code, § 1182.12, subd. (c); see *Minimum Wage*, Cal. Dept. of Industrial Relations, [available here](#) .
- 6 Labor Code, § 1182.12, subd. (c)(3)(A).
- 7 Labor Code, §§ 1474–1476 [fast food restaurant employees]; Labor Code, §§ 1182.14, 1182.15 [covered health care employees].
- 8 29 U.S.C. § 207.
- 9 Labor Code, § 510.
- 10 Labor Code, § 510, subd. (a) [“Eight hours of labor constitutes a day’s work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated

at the rate of no less than one and one-half times the regular rate of pay for an employee.”]; see also Labor Code, §§ 511, 514, 515.

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- 11 Labor Code, § 510, subd. (a) [“Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee.”].
- 12 Labor Code, § 512, subd. (a) [“An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee.”]; Cal. Code of Regs., tit. 8, § 11050, subd. (11).
- 13 Labor Code, § 512, subd. (a) [“An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.”].
- 14 Labor Code, § 512, subd. (a).
- 15 Labor Code, § 512, subd. (a).
- 16 Cal. Code of Regs., tit. 8, § 11050, subd. (11)(A) [“Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an ‘on duty’ meal period and counted as time worked. An ‘on duty’ meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.”].
- 17 Cal. Code of Regs., tit. 8, § 11050, subd. (11)(B) [“If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the meal period is not provided.”]; *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal.5th 858, 864 [the “regular rate of compensation” for premium pay is synonymous with the “regular rate of pay” used to

calculate overtime, and encompasses all nondiscretionary payments, not just hourly wages].

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- 18     *United Parcel Service, Inc. v. Superior Court* (2011) 196 Cal.App.4th 57, 69.
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- 19     See, e.g., Labor Code, § 512, subd. (e) [certain unionized employees are excepted from the normal meal break rules under the right conditions].
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- 20     Labor Code, §§ 512, subd. (a), 516, subd. (a) [stating that, with the exception of meal breaks described in Labor Code section 512, “the Industrial Welfare Commission may adopt or amend working condition orders with respect to break periods”].
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- 21     Cal. Code of Regs., tit. 8, § 11040, subd. (12)(A) [“Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. . . . Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.”].
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- 22     Cal. Code of Regs., tit. 8, § 11040, subd. (12)(A) [“[A] rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 1/2) hours.”].
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- 23     *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257, 269–270 [during rest periods, employers must relieve employees of all duties and relinquish control over how employees spend their break time; on-call rest periods are impermissible].
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- 24     Cal. Code of Regs., tit. 8, § 11040, subd. (12)(B) [“If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the rest period is not provided.”]; see also *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal.5th 858, 864.
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- 25     Cal. Code of Regs., tit. 8, § 11040, subd. (12)(B).
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- 26     Labor Code, § 1030 [“Every employer, including the state and any political subdivision, shall provide a reasonable amount of break time to

accommodate an employee desiring to express breast milk for the employee's infant child."].

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- 27 Labor Code, § 1030 ["The break time shall, if possible, run concurrently with any break time already provided to the employee. Break time for an employee that does not run concurrently with the rest time authorized for the employee by the applicable wage order of the Industrial Welfare Commission shall be unpaid."].
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- 28 See 29 U.S.C § 213 [federal exemptions]; Cal. Code of Regs., tit. 8, § 11040, subd. (1)(A).
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- 29 Labor Code, § 515, subd. (a); Cal. Code of Regs., tit. 8, § 11040 [providing that, for each exempt category, the employee must earn "a monthly salary equivalent to no less than two (2) times the state minimum wage for full-time employment"].
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- 30 Labor Code, § 515, subd. (a) ["The Industrial Welfare Commission may establish exemptions from the requirement that an overtime rate of compensation be paid pursuant to Sections 510 and 511 for executive, administrative, and professional employees, if the employee is primarily engaged in the duties that meet the test of the exemption, customarily and regularly exercises discretion and independent judgment in performing those duties, and earns a monthly salary equivalent to no less than two times the state minimum wage for full-time employment."].
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- 31 Labor Code, § 515, subd. (a) [requiring employees to "customarily and regularly exercise[] discretion and independent judgment in performing" the duties of their job].
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- 32 *Nordquist v. McGraw-Hill Broadcasting Co.* (1995) 32 Cal.App.4th 555, 562 ["Exemptions are narrowly construed against the employer and their application is limited to those employees plainly and unmistakably within their terms."]; *Ramirez v. Yosemite Water Co., Inc.* (1999) 20 Cal.4th 785, 794–795. Federal law is now less protective on this point: exemptions under the federal Fair Labor Standards Act are given a "fair reading" rather than a narrow construction. (*Encino Motorcars, LLC v. Navarro* (2018) 584 U.S. 79, 88–89 [138 S.Ct. 1134, 1142].) California courts, however, continue to construe California's exceptions narrowly against the employer.
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- 33 Labor Code, § 515, subd. (a); Cal. Code of Regs., tit. 8, § 11040.
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- 34 Labor Code, § 515, subds. (a), (c).
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- 35 *Negri v. Koning & Associates* (2013) 216 Cal.App.4th 392, 395;  
*Kettenring v. Los Angeles Unified School Dist.* (2008) 167 Cal.App.4th  
507, 513–514.
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- 36 *Negri v. Koning & Associates* (2013) 216 Cal.App.4th 392, 398 [“Since  
federal law requires that, in order to meet the salary basis test for  
exemption the employee would have to be paid a predetermined amount  
that is not subject to reduction based upon the number of hours worked,  
state law requirements must be at least as protective.”]; *Kettenring v. Los  
Angeles Unified School Dist.* (2008) 167 Cal.App.4th 507, 513–514  
[salary cannot be “subject to reduction because of variations in the  
quality or quantity of the work performed”], quoting 29 C.F.R. §  
541.602(a).
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- 37 *Conley v. Pacific Gas and Elec. Co.* (2005) 131 Cal.App.4th 260, 267; 29  
C.F.R. § 541.602(b)(1).
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- 38 *Conley v. Pacific Gas and Elec. Co.* (2005) 131 Cal.App.4th 260, 267 [“It  
is undisputed that the combined effect of these provisions of federal law  
is to preclude employers from docking the pay of an employee for an  
absence of less than a day (a partial-day absence). If they do, then the  
involved employees do not meet the salary basis test, and are  
nonexempt employees for purposes of overtime pay.”].
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- 39 *Negri v. Koning & Associates* (2013) 216 Cal.App.4th 392, 400.
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- 40 Labor Code, § 515, subds. (a), (c).
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- 41 Labor Code, § 1182.12. The minimum wage applies to “all industries” and  
to “any occupation” except outside salespersons and individuals  
participating in certain national service programs. (Labor Code, §§ 1171,  
1182.12.)
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- 42 Labor Code, § 515, subd. (a).
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- 43 Labor Code, § 1182.12, subd. (c)(3)(A).
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- 44 Labor Code, §§ 1474–1476 [enacted by Assem. Bill No. 1228 (2023–2024  
Reg. Sess.)]. The Fast Food Council has authority to raise this rate in  
future years. (Labor Code, § 1475.)
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- 45 Labor Code, §§ 515, subd. (a), 1475; see *Fast Food Minimum Wage FAQ*, Cal. Dept. of Industrial Relations, [available here](#) <sup>27</sup>.
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- 46 Labor Code, §§ 1182.14, 1182.15 [enacted by Sen. Bill No. 525 (2023–2024 Reg. Sess.)].
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- 47 Labor Code, § 1182.14, subd. (g) [“For covered health care employment where the compensation of the employee is on a salary basis, the employee shall earn a monthly salary equivalent to no less than 150 percent of the health care worker minimum wage or 200 percent of the minimum wage, as described in Section 1182.12, whichever is greater, for full-time employment in order to qualify as exempt from the payment of minimum wage and overtime under the law of this state . . .”].
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- 48 Labor Code, § 515, subd. (a) [“The Industrial Welfare Commission may establish exemptions from the requirement that an overtime rate of compensation be paid pursuant to Sections 510 and 511 for executive, administrative, and professional employees, if the employee is primarily engaged in the duties that meet the test of the exemption, customarily and regularly exercises discretion and independent judgment in performing those duties, and earns a monthly salary equivalent to no less than two times the state minimum wage for full-time employment.”].
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- 49 29 C.F.R. § 541.2; *Negri v. Koning & Associates* (2013) 216 Cal.App.4th 392, 398 [“[S]tate law requirements for exemption from overtime pay must be at least as protective of the employee as the corresponding federal standards.”].
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- 50 Labor Code, § 515, subd. (e) [“For the purposes of this section, ‘primarily’ means more than one-half of the employee’s worktime.”].
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- 51 Labor Code, § 515, subd. (a); Cal. Code of Regs., tit. 8, §§ 11010–11170 [wage orders of the California Industrial Welfare Commission].
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- 52 Cal. Code of Regs., tit. 8, §§ 11010–11150, subds. (1)(A)(2) [defining administrative employee under California law]. An employee might also be considered administrative if they perform “functions in the administration of a school system, or educational establishment or institution, or of a department or subdivision thereof, in work directly related to the academic instruction or training carried on therein.” (*Id.*)
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- 53 29 C.F.R. § 541.201(a).
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| 54 | 29 C.F.R. § 541.201(b).                                                                                                                                                                                                                                                                                                                             |
| 55 | Cal. Code of Regs., tit. 8, §§ 11010–11150, subds. (1)(A)(1) [defining executive employee].                                                                                                                                                                                                                                                         |
| 56 | 29 C.F.R. § 541.102.                                                                                                                                                                                                                                                                                                                                |
| 57 | “Teaching” for these purposes only applies to teaching under a certificate from the Commission for Teacher Preparation and Licensing or teaching in an accredited college or university. (Cal. Code of Regs., tit. 8, § 11040, subd. (2)(R).)                                                                                                       |
| 58 | Cal. Code of Regs., tit. 8, §§ 11010–11150, subds. (3)(A).                                                                                                                                                                                                                                                                                          |
| 59 | Cal. Code of Regs., tit. 8, §§ 11010–11150, subds. (3)(B).                                                                                                                                                                                                                                                                                          |
| 60 | 29 C.F.R. § 541.300 [defining professional employee under the federal FLSA]; Cal. Code of Regs., tit. 8, §§ 11010–11150, subd. (1)(A)(3) [defining professional employee under California law].                                                                                                                                                     |
| 61 | Labor Code, § 515, subd. (f)(1).                                                                                                                                                                                                                                                                                                                    |
| 62 | Labor Code, § 515, subd. (a).                                                                                                                                                                                                                                                                                                                       |
| 63 | 29 C.F.R. § 541.202(a) [“In general, the exercise of discretion and independent judgment involves the comparison and the evaluation of possible courses of conduct, and acting or making a decision after the various possibilities have been considered.”].                                                                                        |
| 64 | 29 C.F.R. § 541.202(c) [“The exercise of discretion and independent judgment implies that the employee has authority to make an independent choice, free from immediate direction or supervision. However, employees can exercise discretion and independent judgment even if their decisions or recommendations are reviewed at a higher level.”]. |
| 65 | Cal. Code of Regs., tit. 8, §§ 11040, subd. (3)(D), 11070, subds. (3)(D).                                                                                                                                                                                                                                                                           |
| 66 | Labor Code § 204.1 defines commissions as “compensation paid to any person for services rendered in the sale of such employer’s property or services and based proportionately upon the amount or value thereof.” (See also <i>Areso v. CarMax, Inc.</i> (2011) 195 Cal.App.4th 996, 1003.)                                                         |
| 67 | See Labor Code, § 2751, subd. (c) [excluding short-term productivity bonuses, bonus and profit-sharing plans that are not based on a fixed                                                                                                                                                                                                          |

percentage of sales or profits, and “[t]emporary, variable incentive payments that increase, but do not decrease, payment under the written contract” from the statutory definition of a commission].

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- 68 *Overtime Exemption for Licensed Physicians and Surgeons* (Oct. 2025), Cal. Dept. of Industrial Relations, [available here](#) <sup>2</sup> [setting the rate effective January 1, 2026].
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- 69 Labor Code, § 515.6 [“Section 510 shall not apply to any employee who is a licensed physician or surgeon, who is primarily engaged in duties that require licensure pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, and whose hourly rate of pay is equal to or greater than fifty-five dollars (\$55.00). The department shall adjust this threshold rate of pay each October 1, to be effective the following January 1, by an amount equal to the percentage increase in the California Consumer Price Index for Urban Wage Earners and Clerical Workers.”].
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- 70 Labor Code, § 515.6, subd. (b).
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- 71 Labor Code, § 515.5.
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- 72 Labor Code, § 515.5, subd. (a)(1).
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- 73 Labor Code, § 515.5, subd. (a)(1).
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- 74 Labor Code, § 515.5, subd. (a)(3).
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- 75 Labor Code, § 515.5, subds. (a)(2)(A)–(C).
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- 76 Labor Code, § 515.5, subd. (a)(4); *Overtime Exemption for Computer Software Employees* (Oct. 2025), Cal. Dept. of Industrial Relations, [available here](#) <sup>2</sup> [setting the rates effective January 1, 2026].
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- 77 Labor Code, § 515.5, subd. (a)(4); *Overtime Exemption for Computer Software Employees* (Oct. 2025), Cal. Dept. of Industrial Relations, [available here](#) <sup>2</sup>.
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- 78 Labor Code, § 515.8, subd. (a).
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- 79 Labor Code, § 515.8, subd. (b)(1).
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- 80 Labor Code, § 515.8, subd. (b)(2).
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- 81 Labor Code, § 515.8, subd. (b)(3)(A). Part-time teachers must earn a proportional share of this amount, based on the portion of a full-time

instructional schedule that they work. (Labor Code, § 515.8, subd. (b)(3) (B).) When budgeting for a future school year, private schools may rely on district salary schedules in effect up to 12 months before the start of the school year. (Labor Code, § 515.8, subd. (c).)

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| 82 | Labor Code, § 515.8, subd. (b)(4).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 83 | Labor Code, § 515.8, subd. (d).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 84 | Cal. Code of Regs., tit. 8, §§ 11010–11170, subds. (1)(C).                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 85 | Cal. Code of Regs., tit. 8, §§ 11010–11170, subds. (2)(M).                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 86 | See, e.g., Cal. Code of Regs., tit. 8, § 11090, subd. (3)(L).                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 87 | Cal. Code of Regs., tit. 8, § 11090, subd. (3)(L); 49 C.F.R. §§ 395.1–395.13; Cal. Code of Regs., tit. 13, § 1200, et seq.                                                                                                                                                                                                                                                                                                                                                                                                              |
| 88 | See 49 C.F.R. §§ 395.1–395.13.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 89 | See Cal. Code of Regs., tit. 13, § 1200, et seq.; see also <i>Collins v. Overnite Transp. Co.</i> (2003) 105 Cal.App.4th 171, 175.                                                                                                                                                                                                                                                                                                                                                                                                      |
| 90 | <i>California’s Meal and Rest Break Rules for Commercial Motor Vehicle Drivers; Petition for Determination of Preemption</i> (Dec. 28, 2018) 83 Fed.Reg. 67470; <i>International Brotherhood of Teamsters, Local 2785 v. Federal Motor Carrier Safety Administration</i> (9th Cir. 2021) 986 F.3d 841, 846 [upholding the determination that federal law preempts application of California’s meal and rest break rules to drivers of property-carrying commercial motor vehicles subject to the federal hours-of-service regulations]. |
| 91 | Labor Code, § 514.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 92 | Labor Code, § 514.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 93 | Labor Code, § 514.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 94 | Labor Code, § 1173.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 95 | Cal. Code Regs., tit. 8, § 11150, subd. 3.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 96 | Cal. Code Regs., tit. 8, § 11050, subd. 3.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 97 | Cal. Code Regs., tit. 8, § 11050, subd. 3.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 98 | Cal. Code Regs., tit. 8, § 11050, subd. 3.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

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| 99  | Cal. Code Regs., tit. 8, § 11050, subd. 3.                                                                                                                                                                                                                                                                                                                                                                                             |
| 100 | Cal. Code Regs., tit. 8, § 11050, subd. 3.                                                                                                                                                                                                                                                                                                                                                                                             |
| 101 | Cal. Code Regs., tit. 8, § 11140, subd. 3.                                                                                                                                                                                                                                                                                                                                                                                             |
| 102 | See, e.g., Cal. Code Regs., tit. 8, § 11040, subd. 1(D).                                                                                                                                                                                                                                                                                                                                                                               |
| 103 | <i>Nordquist v. McGraw-Hill Broadcasting Co.</i> (1995) 32 Cal.App.4th 555, 562 [“Exemptions are narrowly construed against the employer and their application is limited to those employees plainly and unmistakably within their terms.”].                                                                                                                                                                                           |
| 104 | <i>Ramirez v. Yosemite Water Co., Inc.</i> (1999) 20 Cal.4th 785, 794–795 [“[T]he assertion of an exemption from the overtime laws is considered to be an affirmative defense, and therefore the employer bears the burden of proving the employee’s exemption.”].                                                                                                                                                                     |
| 105 | Labor Code, §§ 204, 510, subd. (a) [“Eight hours of labor constitutes a day’s work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.”]; see also Labor Code, §§ 511, 514, 515. |
| 106 | Labor Code, §§ 204, 1194, subd. (a).                                                                                                                                                                                                                                                                                                                                                                                                   |
| 107 | Labor Code, § 1194, subd. (a).                                                                                                                                                                                                                                                                                                                                                                                                         |
| 108 | Labor Code, §§ 204, 210, 225.5.                                                                                                                                                                                                                                                                                                                                                                                                        |
| 109 | Labor Code, § 210, subd. (b).                                                                                                                                                                                                                                                                                                                                                                                                          |
| 110 | Labor Code, § 2699; see <i>Private Attorneys General Act (PAGA) Frequently Asked Questions</i> , Cal. Labor & Workforce Development Agency, <a href="#">available here</a> <sup>24</sup> [for PAGA notices filed on or after June 19, 2024, penalties are distributed 65 percent to the state and 35 percent to the aggrieved employees; the employee share was 25 percent under prior law].                                           |
| 111 | Labor Code, § 512, subd. (a).                                                                                                                                                                                                                                                                                                                                                                                                          |
| 112 | See, e.g., Cal. Code of Regs., tit. 8, §§ 11010–11150, subds. (11)(B); <i>Ferra v. Loews Hollywood Hotel, LLC</i> (2021) 11 Cal.5th 858, 864.                                                                                                                                                                                                                                                                                          |

- 113 Labor Code, § 226.7, subd. (c); Cal. Code of Regs., tit. 8, §§ 11010–11150, subds. (11)(B), (12)(B).
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- 114 *United Parcel Service, Inc. v. Superior Court* (2011) 196 Cal.App.4th 57, 69.
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- 115 *Naranjo v. Spectrum Security Services, Inc.* (2022) 13 Cal.5th 93, 102 [missed-break premium pay constitutes wages that must be reported on statutorily required wage statements and paid within the statutory deadlines when an employee leaves the job].
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- 116 Labor Code, § 226.
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- 117 Labor Code, § 226, subd. (e)(1).
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- 118 Labor Code, § 226, subd. (e)(1) [“An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.”].
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- 119 *Naranjo v. Spectrum Security Services, Inc.* (2024) 15 Cal.5th 1056, 1062–1063 [an employer’s objectively reasonable, good faith belief that it provided employees with adequate wage statements precludes an award of penalties under Labor Code section 226, subdivision (e)(1)].
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- 120 Labor Code, § 203, subd. (a); see *McLean v. State of California* (2016) 1 Cal.5th 615, 619 [“An ‘employer’ that ‘willfully fails to pay’ in accordance with sections 201 and 202 ‘any wages of an employee who is discharged or who quits’ is subject to so-called waiting-time penalties of up to 30 days’ wages.”].
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- 121 See *Reynolds v. Bement* (2005) 36 Cal.4th 1075, 1084 [“The employee may seek judicial relief by filing an ordinary civil action against the employer for breach of contract and/or for the wages prescribed by statute. [Citations.] Or the employee may seek administrative relief by filing a wage claim with the commissioner pursuant to a special statutory scheme codified in [Labor Code] sections 98 to 98.8.”].
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| 122 | Code Civ. Proc., § 338, subd. (a) [statute of limitations: “Within three years: (a) An action upon a liability created by statute, other than a penalty or forfeiture.”]; <i>Aubry v. Goldhor</i> (1988) 201 Cal.App.3d 399, 404 [“[A]n employer’s obligation to pay overtime compensation to his employee would not exist but for the Labor Code. An action to enforce that obligation therefore is governed by the three-year statute of limitations . . .”]. |
| 123 | <i>Cuadra v. Millan</i> (1998) 17 Cal.4th 855, 859.                                                                                                                                                                                                                                                                                                                                                                                                             |
| 124 | <i>Cuadra v. Millan</i> (1998) 17 Cal.4th 855, 859.                                                                                                                                                                                                                                                                                                                                                                                                             |
| 125 | Code of Civ. Proc., § 339.                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 126 | See Code Civ. Proc., § 340, subd. (a) [statute of limitations: “Within one year: (a) An action upon a statute for a penalty or forfeiture, if the action is given to an individual, or to an individual and the state, except if the statute imposing it prescribes a different limitation.”].                                                                                                                                                                  |
| 127 | <i>Pineda v. Bank of America, N.A.</i> (2010) 50 Cal.4th 1389, 1392–1401.                                                                                                                                                                                                                                                                                                                                                                                       |
| 128 | Code Civ. Proc., § 337, subd. (a) [“Within four years: (a) An action upon any contract, obligation or liability founded upon an instrument in writing . . .”].                                                                                                                                                                                                                                                                                                  |
| 129 | Bus. & Prof. Code, § 17208.                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 130 | See Bus. & Prof. Code, § 17203; <i>Cortez v. Purolator Air Filtration Products Co.</i> (2000) 23 Cal.4th 163, 178 [“[A]n order that a business pay to an employee wages unlawfully withheld is consistent with the legislative intent underlying the authorization in section 17203 for orders necessary to restore to a person in interest money or property acquired by means of an unfair business practice.”].                                              |
| 131 | 29 U.S.C. § 255(a).                                                                                                                                                                                                                                                                                                                                                                                                                                             |