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THE PROFESSIONAL EXEMPTION IN CALIFORNIA, A LEGAL GUIDE

Professional employees are exempt from California's overtime and rest-break laws only if they meet a strict salary test and one of two duties tests.

This document is a PDF version of the following article:
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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.

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Most California employees are entitled to be paid minimum wage.[1] They are also entitled to overtime wages when they work more than eight hours in a workday, more than forty hours in a workweek, or seven consecutive days.[2] Some employees, however, are *exempt* from minimum wage and overtime laws, as well as related laws requiring employers to provide rest periods.[3]

One of those exemptions, recognized by both California and federal law, applies to *professional* employees.[4] In general, an employee can be classified as an exempt professional in California only if the employee meets two criteria:

- **Salary.** The employee is paid a salary of at least twice the state minimum wage for full-time employment ($5,858.67 per month in 2026); and
- **Duties.** The employee primarily performs the duties of a recognized profession for which the employee is licensed (like law or medicine), or of a learned or artistic profession, while customarily and regularly exercising discretion and independent judgment.[5]

Employers sometimes misclassify an employee as an exempt professional employee, either inadvertently or in a deliberate attempt to avoid paying overtime.[6] It is important for both employers and employees to understand the legal test that defines the professional employee exemption so that employees are not misclassified.

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CH. 01

California's Legal Framework

In California, employees are protected by two main sets of laws that control wages:

- The federal Fair Labor Standards Act,[7] and
- California's Labor Code.

Both sets of laws have regulations that provide guidance on how they should be applied.[8]

1.1 How to Know Which Law Applies

State and federal wage and hour laws are often similar, but not identical. Usually, for example, California law protects employee rights to a greater extent than federal laws.

In situations where state and federal law are not the same, California employers are required to follow the standard that is more beneficial to employees.[9]

This means that most California employers are required to apply the wage or hour laws most favorable to the employee.[10]

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1.2 How Courts Interpret the Law

When the definitions of an exemption are similar, California courts are usually guided by federal law in determining how they should apply.[11] Federal law in effect at the time the Wage Orders were adopted (generally in 2001) has particularly persuasive weight.[12]

Although the federal regulations were revised in 2004, they still provide persuasive guidance in interpreting similar California exemptions to the extent that those revisions clarified, but did not expand, the earlier regulations.[13]

1.3 Tests to Determine the Professional Exemption

California imposes two tests to determine whether an employee can be classified as an exempt professional employee. Those are:

- The *salary* test,[14] and
- The *job duties* test.[15]

The professional exemption applies only when *both* tests are satisfied. These two tests are explained in more detail below.

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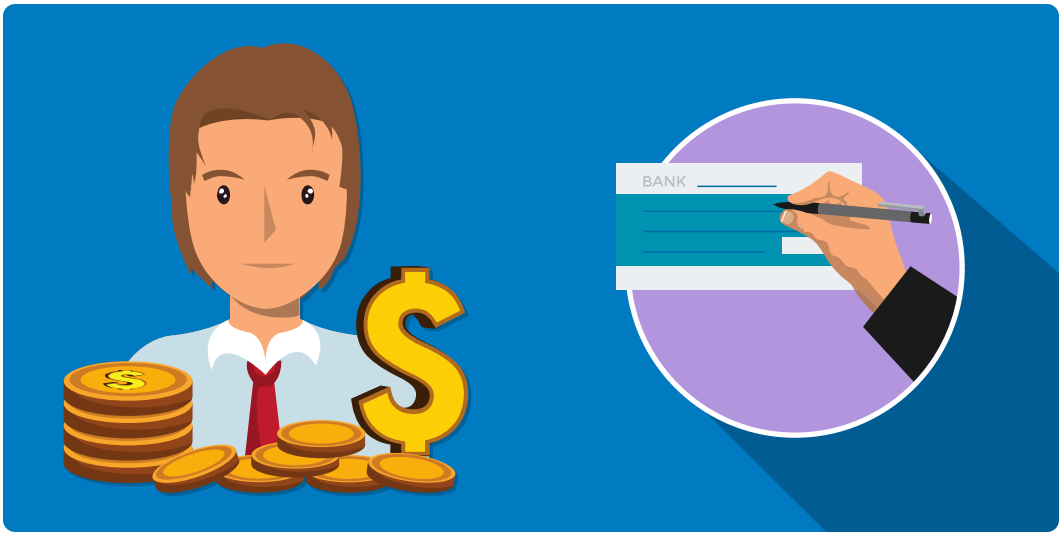
CH. 02

The Salary Test



With some exceptions,[16] employees must be paid a salary to qualify for the professional employee exemption. Professional employees who are paid an hourly wage are usually not considered exempt (unless they fall into a different exemption category, like physicians or computer professionals).[17]

A *salary*, for these purposes, is a fixed minimum payment of wages that is paid regardless of hours worked or the amount or quality of work performed. Employees who are paid an hourly wage cannot be classified as exempt professional employees.[18]

A salary that is tied to the number of hours worked, with no minimum guarantee, is treated as the payment of hourly wages and will not satisfy the professional exemption's salary requirement.[19]

2.1 The Salary Amount

To meet the salary test, an employee (other than a teacher in a private school)[20] must be paid a monthly salary that is at least *twice the state minimum wage* for full-time employment.[21]

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“Full-time employment,” for these purposes, is defined as 40 hours per week.[22] And the phrase “monthly salary” refers to the amount of wages paid in a month, not to the frequency of payment. Most employees are entitled to be paid twice a month.[23]

In 2026, California employees are entitled to be paid a minimum wage of at least $16.90 per hour, regardless of the employer's size.[24] This means that the minimum salary for exempt employees in 2026 is **$5,858.67 per month** (or $70,304.00 annually).

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.[25]

By contrast, federal law sets the minimum salary for exempt employees at $684 per week ($35,568 per year). California's higher standard controls for California employees.[26]

California's minimum wage is adjusted every year on January 1 to account for inflation.[27] This means that the minimum salary for exempt employees in California typically increases each year as well.

Certain industries have higher salary floors. Exempt employees of covered fast food restaurants must earn a monthly salary of at least twice the fast food minimum wage of $20.00 per hour for full-time employment (currently $83,200 per year).[28] And covered health care employees must earn a salary of at least the greater of 150 percent of their facility's health care minimum wage or twice the state minimum wage.[29]

For more information about California's minimum wage, please read our article: Guide to California’s Minimum Wage Laws in 2026 and Beyond.

2.2 Salary Deductions for Absences

In calculating an employee's salary for the purposes of the professional exemption, employers are permitted to deduct any unpaid vacation days or personal days that are taken by the employee.[30] Importantly, however, the deductions must reflect a full day of pay due to absence from work.

When deductions are made from a salary for missing *less than* a full day of work, the employee cannot be classified as exempt. Docking an employee's pay for missing less

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than a full day of work amounts to treating the employee as an hourly employee, rather than a salaried employee.[31]

Requiring exempt employees to use annual vacation or leave time when they miss work, even if they are absent for only part of a day, will not usually affect an employee's exempt status.[32] When leave or vacation time has been exhausted, however, deducting pay for missing a partial day of work would require the employer to treat the employee as nonexempt.

2.3 Disciplinary Salary Deductions

Under federal law, docking an employee's salary as a disciplinary action may nullify an employer's classification of the employee as exempt.[33]

In California, however, “docking” a salary as a disciplinary action should never happen. “Docking” wages for disciplinary reasons is contrary to California's policy that an employer must pay, without deduction except for those authorized by law, the full wages an employee has earned.[34]

On the other hand, docking a salary for missing full days of work due to a disciplinary suspension will not cause a loss of exempt status unless the remaining salary earned during the month in which the deduction was made causes the monthly salary to fall below the threshold required for the exemption.[35]

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CH. 03

The Duties Test

The California and federal duties tests are similar in their descriptions of the job duties that professional employees must perform to qualify for the exemption. The duties test focuses on the duties *actually performed*, not on the job title or on the duties that an employer writes into a position description.[36]

California has adopted two alternative duties tests for the professional employee exemption. Work may satisfy the duties test for professional employment if it is primarily performed in connection with:

- A “recognized profession” listed in the regulation, *or*
- A learned or artistic profession.[37]

In either case, the duties test will only be satisfied if the employee customarily and regularly exercises discretion and independent judgment in the performance of those duties.[38]

An employee *primarily* performs duties required for the exemption if more than one-half of the employee's worktime is spent in the performance of those duties.[39]

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EXAMPLE

A licensed engineer who primarily performs clerical duties, rather than engineering duties, cannot be classified as exempt on the basis of the license.

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CH. 04

Recognized Professions

If the salary test is satisfied and the employee customarily and regularly exercises discretion and independent judgment, an employee will be deemed to be an exempt professional employee if the employee *primarily* works in any of the following recognized professions:

- Law,
- Medicine,
- Dentistry,
- Optometry,
- Architecture,
- Engineering,
- Teaching, or
- Accounting.[40]

Working in a recognized profession only allows an employee to be classified as exempt if the employee is *licensed or certified* by the State of California in that profession.[41] A professional education alone is not sufficient.

On the other hand, an employee who has a professional education, but no license, might be exempt under the learned profession exemption discussed below.[42]

4.1 Physicians

California law specifically exempts physicians from overtime requirements if:

- The physician has a medical license;
- The physician is primarily engaged in duties that require a medical license; *and*

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- The physician's hourly rate of pay equals or exceeds a specified amount.[43]

The hourly rate required to satisfy the exemption is adjusted each year by the Department of Industrial Relations. The adjustment is based on the California Consumer Price Index.[44] In 2026, the required minimum rate of pay for an exempt physician is $107.17 per hour.[45]

The physician exemption does not apply to medical interns or residents. It also does not apply to physicians who are covered by a valid collective bargaining agreement.[46]

4.2 Pharmacists and Registered Nurses

Pharmacists do *not* qualify for the professional employee exemption.[47]

Likewise, most registered nurses do not qualify for the professional employee exemption. Some advanced practice nurses may, however, qualify if they meet the criteria discussed below.[48]

It may also be possible for pharmacists and nurses to be classified as exempt executive or administrative employees if they satisfy the salary and duties tests that apply to those exemptions.[49]

4.3 Advanced Practice Nurses

An advanced practice nurse may be classified as an exempt professional employee if the nurse primarily performs duties for which certification is required in one of the following occupations:

- ✓ Certified nurse midwives,
- ✓ Certified nurse anesthetists, or
- ✓ Certified nurse practitioners.[50]

The exemption applies only if the advanced practice nurse also meets the salary test and customarily and regularly exercises discretion and independent judgment in the performance of professional duties for which the nurse is certified.[51]

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4.4 Teachers

Teaching is one of the recognized occupations for the professional employee exemption.[52]

The fact that a job involves teaching does not automatically make an employee exempt.[53] Instead, the employee must either: teach at an accredited college or university, or educate students under a certificate from the Commission for Teacher Preparation and Licensing (now known as the Commission on Teacher Credentialing).[54]

> EXAMPLE
>
> A software company classified California employees who trained customers to use its products as exempt teachers. The company was later sued for misclassifying nonexempt employees as exempt.[55]

An institution that offers vocational training, such as a culinary school, might meet the definition of "college" if it has:

- ✓ Been accredited by a national institution accrediting organization recognized by the United States Secretary of Education;
- ✓ Been approved by the California Bureau for Private Postsecondary & Vocational Education (a function now performed by the Bureau for Private Postsecondary Education);
- ✓ A significant number of faculty members;
- ✓ A substantial library relevant to the course of education;
- ✓ A curriculum that provides a comprehensive education to students seeking a career in a relevant industry; and
- ✓ Created standards of performance that students are expected to meet.[56]

4.5 Private Elementary and Secondary School Teachers

A teacher in a private school who is primarily engaged in "imparting knowledge to pupils by teaching, instructing, or lecturing"[57] may be classified as exempt for

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overtime purposes if:

- The pupils are in any grade from K through 12;[58]
- The teacher customarily and regularly exercises discretion and independent judgment in performing teaching duties;[59] *and*
- The teacher has *either* a bachelor's degree (or a higher degree) from an accredited institution of higher education, *or* currently meets the requirements established by the California Commission on Teacher Credentialing (or the equivalent certification authority of another state) for obtaining a preliminary or alternative teaching credential.[60]

In addition, to be classified as exempt after July 1, 2017, a full-time teacher in a private elementary or secondary school must be paid the *greater* of the following:

- The lowest salary offered by *any* California school district for a position that requires a valid California teaching credential, *or*[61]
- At least 70% of the lowest schedule salary offered by the school district or county office of education in which the private school is located.[62]

A part-time teacher must instead be paid a proportional amount of that salary, based on the share of a full-time instructional schedule that the teacher works.[63]

In identifying the *lowest salary*, positions filled pursuant to an emergency permit, intern permit, or waiver are not counted.[64]

The exemption for private elementary and secondary school teachers does not include:

- Student teachers;
- Tutors;
- Teaching assistants;
- Instructional aides;
- Day care providers;
- Vocational instructors; or
- Similar employees.[65]

Private school teachers who do not meet the criteria for the exemption identified above may be exempt if they meet the criteria for an executive, administrative, or

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learned professional exemption.[66]

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CH. 05

Learned or Artistic Professions

The learned or artistic professional exemption applies only to employees who perform work that is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work).[67]

Additionally, the work must be "of such character that the output produced or the result accomplished cannot be standardized in relation to a given period of time."[68]

In addition to those general requirements, California law attaches specific definitions to the terms "learned professional" and "artistic professional."

5.1 Learned Professional

California law defines a *learned professional* as an employee who is primarily engaged in the performance of work requiring advanced knowledge in a field of science or learning.[69] That knowledge is usually acquired by a lengthy education, specialized to that particular field.[70]

An employee who has a general academic education, who has learned from an apprenticeship, or who has been trained in the performance of routine mental,

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manual, or physical processes is *not* a learned professional.[71]

> EXAMPLE
>
> An employee with a bachelor's degree in chemistry might be an example of a learned professional if the minimum salary requirements are satisfied, if the employee primarily engages in work that requires use of the employee's knowledge of chemistry, and if the employee's work is predominantly intellectual and varied.
>
> On the other hand, a chemist who regularly performs routine and automated lab tests that require no interpretation might not meet the standard of a learned professional.

A paralegal or other employee with a certificate from a vocational school or community college that offers a 2-year course of study has not generally engaged in the prolonged course of specialized study that the professional exemption requires.[72]

5.2 Artistic Professional

California law defines an *artistic professional* as an employee who is primarily engaged in work that is original and creative in character in a recognized field of artistic endeavor. The result of the artistic professional's work must depend primarily on the invention, imagination, or talent of that creator.[73]

An employee who performs work that can be produced by a person who has generalized abilities and training is *not* an artistic professional.[74]

Writers, graphic artists, actors, and musicians are examples of employees who work in “a recognized field of artistic endeavor.”[75]

An employee who reproduces art created by others without adding anything new, who animates art created by others, or who retouches photographs is *not* performing the kind of creative work that qualifies for the artistic professional exemption.[76]

Journalists who write opinion columns or who analyze the news may exercise the kind of creativity that the artistic professional exemption requires, but journalists who merely report the news probably cannot be classified as exempt.[77] The reporting of

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facts usually depends on “intelligence, diligence and accuracy, rather than creativity.” [78]

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CH. 06

Discretion and Independent Judgment

To qualify as an exempt professional employee, California's Labor Code requires the worker to customarily and regularly exercise *discretion and independent judgment* in performing their duties.[79]

An employee exercises discretion and independent judgment when the employee makes and implements important choices after considering competing courses of action.[80]

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.[81]

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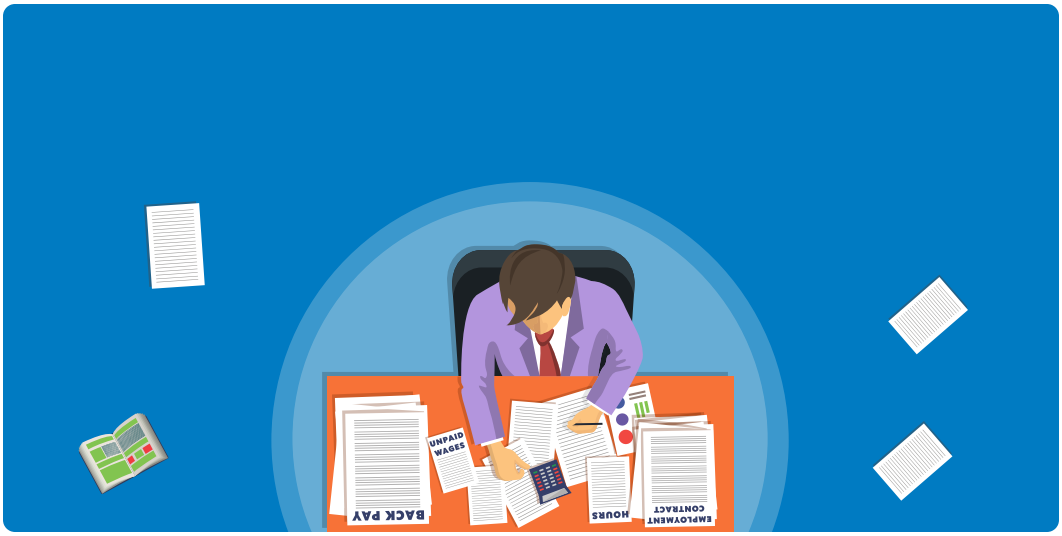
CH. 07

Applying the Tests



California law has adopted a “strong public policy” of protecting the welfare of workers and assuring a stable labor market. To that end, if the meaning of a California wage and hour law is unclear, courts will interpret the law to promote protection of employees.[82]

Exemptions, in particular, are narrowly construed and are only allowed if the employer is “plainly and unmistakably” entitled to classify the employee as exempt. If an employee disputes the classification, it is the employer's burden to prove that the employee was properly classified as exempt.[83]

Applying the salary test is often straightforward, but the duties test requires a close examination of the work that the employee actually does during the course of the workday. Misclassification may create an entitlement to collect unpaid overtime and other remedies.

Information about how employees can seek those remedies is available in our article, How to File a Wage and Hour Claim in California.

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References

1 To learn more about the minimum wage, see our Guide to California's Minimum Wage Laws in 2026 and Beyond.

2 To learn more about California's overtime law, see our article: The Ultimate Guide to California's Overtime Wage Laws.

3 See, e.g., Cal. Code of Regs., tit. 8, § 11040, subds. 3 [overtime], 4 [minimum wage], 5 [reporting time pay], 12 [rest periods]. Subdivision 1(A) of that wage order provides that subdivisions 3 through 12 "shall not apply to persons employed in administrative, executive, or professional capacities."

4 29 U.S.C. § 213(a)(1); 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 . . . ."]; Cal. Code of Regs., tit. 8, § 11040, subd. 1(A).

5 Labor Code, § 515, subd. (a); Cal. Code of Regs., tit. 8, § 11040, subd. 1(A)(3). Licensed physicians and computer professionals can qualify as exempt based on a minimum hourly rate of pay instead of a salary. The physician exception is discussed below; the computer professional exemption is covered in our article The Computer Professional Exemption to California's Wage Laws.

6 See, e.g., *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319, 329 ["The record contains substantial, if disputed, evidence that deliberate misclassification was defendant's policy and practice."].

7 29 U.S.C. §§ 201–219.

8 29 C.F.R. §§ 541.0–541.710 [federal regulations governing exemptions]; Cal. Code of Regs., tit. 8, §§ 11000–11170 [California wage orders adopted by the Industrial Welfare Commission].

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9 29 U.S.C. § 218; *Aguilar v. Association for Retarded Citizens* (1991) 234 Cal.App.3d 21, 34 [“[F]ederal law does not control unless it is more beneficial to employees than the state law.”]; see also *Pacific Merchant Shipping Ass'n v. Aubry* (9th Cir. 1990) 918 F.2d 1409, 1419 [finding that the FLSA did not preempt states from enforcing more protective overtime laws than federal law]; *Ramirez v. Yosemite Water Co.* (1999) 20 Cal.4th 785, 795 [“The FLSA explicitly permits greater employee protection under state law.”].

10 29 C.F.R. § 778.5 [“Various Federal, State, and local laws require the payment of minimum hourly, daily or weekly wages different from the minimum set forth in the Fair Labor Standards Act, and the payment of overtime compensation computed on bases different from those set forth in the Fair Labor Standards Act. Where such legislation is applicable and does not contravene the requirements of the Fair Labor Standards Act, nothing in the act, the regulations or the interpretations announced by the Administrator should be taken to override or nullify the provisions of these laws. Compliance with other applicable legislation does not excuse noncompliance with the Fair Labor Standards Act. Where a higher minimum wage than that set in the Fair Labor Standards Act is applicable to an employee by virtue of such other legislation, the regular rate of the employee, as the term is used in the Fair Labor Standards Act, cannot be lower than such applicable minimum, for the words 'regular rate at which he is employed' as used in section 7 must be construed to mean the regular rate at which he is lawfully employed.”].

11 See, e.g., Cal. Code of Regs., tit. 8, § 11040, subd. 1(A)(3)(e) [“Subparagraph (b) above is intended to be construed in accordance with the following provisions of federal law as they existed as of the date of this wage order: 29 C.F.R. Sections 541.207, 541.301(a)-(d), 541.302, 541.306, 541.307, 541.308, and 541.310.”].

12 *Taylor v. United Parcel Service, Inc.* (2010) 190 Cal.App.4th 1001, 1015 [“Federal law interpreting similar components of the FLSA exemptions is properly considered as persuasive authority, even if not binding on this court.”].

13 *Soderstedt v. CBIZ So. Cal., LLC* (2011) 197 Cal.App.4th 133, 150.

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14 Cal. Code of Regs., tit. 8, § 11040, subd. 1(A)(3)(d) [“Who earns a monthly salary equivalent to no less than two (2) times the state minimum wage for full-time employment.”]; 29 C.F.R. § 541.600(a) [“To qualify as an exempt executive, administrative or professional employee under section 13(a)(1) of the Act, an employee must be compensated on a salary basis at a rate of not less than $684 per week . . . , exclusive of board, lodging or other facilities.”].

15 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.”]; see also 29 C.F.R. § 541.300(a)(2) [the federal professional exemption's parallel primary-duty requirement].

16 Namely, licensed physicians and computer professionals. The exemption for licensed physicians is explained later in this article. The exemption for computer professionals is explained in our article The Computer Professional Exemption to California's Wage Laws.

17 29 C.F.R. § 541.600(a) [“To qualify as an exempt executive, administrative or professional employee under section 13(a)(1) of the Act, an employee must be compensated on a salary basis at a rate of not less than $684 per week . . . , exclusive of board, lodging or other facilities.”]; see also Cal. Code of Regs., tit. 8, § 11040, subd. 1(A)(3)(d) [requiring “a monthly salary equivalent to no less than two (2) times the state minimum wage for full-time employment”].

18 See *Negri v. Koning & Associates* (2013) 216 Cal.App.4th 392, 397 [“A salary is generally understood to be a fixed rate of pay as distinguished from an hourly wage.”]; 29 C.F.R. § 541.602(a) [“An employee will be considered to be paid on a 'salary basis' within the meaning of this part if the employee regularly receives each pay period on a weekly, or less frequent basis, a predetermined amount constituting all or part of the employee's compensation, which amount is not subject to reduction because of variations in the quality or quantity of the work performed.”].

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19 *Negri v. Koning & Associates* (2013) 216 Cal.App.4th 392, 399 [A salary must be "a *predetermined amount* that is *not subject to reduction* based upon the quantity or quality of work."].

20 The minimum salary requirement for private school teachers is discussed below.

21 Labor Code, § 515, subd. (a).

22 Labor Code, § 515, subd. (c) ["For the purposes of subdivision (a), 'full-time employment' means employment in which an employee is employed for 40 hours per week"].

23 Labor Code, § 204, subd. (a) ["All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays."].

24 Labor Code, § 1182.12; see Dept. of Industrial Relations, Minimum Wage, available here. 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.)

25 Labor Code, § 515, subd. (a).

26 29 C.F.R. § 541.600(a). Higher federal salary levels adopted in 2024 were vacated by the federal courts, and the U.S. Department of Labor formally rescinded them effective May 15, 2026, restoring the $684 standard. (91 Fed.Reg. 27835 (May 15, 2026).)

27 Labor Code, § 1182.12; see Dept. of Industrial Relations, Minimum Wage, available here.

28 Labor Code, §§ 1474–1476; see Dept. of Industrial Relations, Fast Food Minimum Wage FAQ, available here.

29 Labor Code, §§ 1182.14–1182.15; see Dept. of Industrial Relations, Health Care Worker Minimum Wage FAQ, available here.

30 *Conley v. Pacific Gas & Elec. Co.* (2005) 131 Cal.App.4th 260, 266–267 [following 29 C.F.R. § 541.602(b)(1), which provides that "[d]eductions from pay may be made when an exempt employee is absent from work for one or more full days for personal reasons, other than sickness or

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disability"]. Federal law provides that deductions from pay for full days of sickness or disability will not affect the exemption if the employer has a plan in place that compensates the employee "for loss of salary occasioned by such sickness or disability," or if the employee has not yet qualified for the plan or has exhausted its benefits. (29 C.F.R. § 541.602(b)(2).)

31 *Conley v. Pacific Gas & Electric 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 for purposes of overtime pay."].

32 *Rhea v. General Atomics* (2014) 227 Cal.App.4th 1560, 1569.

33 *Auer v. Robbins* (1997) 519 U.S. 452, 456 [117 S.Ct. 905, 909] [adopting Labor Secretary's view that "employees whose pay is adjusted for disciplinary reasons do not deserve exempt status because as a general matter true 'executive, administrative, or professional' employees are not 'disciplined' by piecemeal deductions from their pay, but are terminated, demoted, or given restricted assignments"].

34 See, e.g., *Prachasaisoradej v. Ralphs Grocery Co., Inc.* (2007) 42 Cal.4th 217, 231 ["the public policy of special protection for wages generally had been expressed in numerous statutes and decisions that required the prompt and full payment of wages due, as the employee's exclusive property"].

35 See Dept. of Industrial Relations, DLSE Opn. Letter No. 2002.05.06 (May 6, 2002), available here. This interpretation of California law differs from the federal rule, which permits deductions from pay of exempt employees if they are "made for unpaid disciplinary suspensions of one or more full days imposed in good faith for infractions of workplace conduct rules" and are "imposed pursuant to a written policy applicable to all employees." 29 C.F.R. § 541.602(b)(5).

36 See 29 C.F.R. § 541.2 ["A job title alone is insufficient to establish the exempt status of an employee. The exempt or nonexempt status of any particular employee must be determined on the basis of whether the employee's salary and duties meet the requirements of the regulations in

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this part."]; *Mies v. Sephora U.S.A., Inc.* (2015) 234 Cal.App.4th 967, 978 [exemption depends "upon what an employee actually does on the job"]; *Taylor v. United Parcel Service, Inc.* (2010) 190 Cal.App.4th 1001, 1015 ["No bright-line rule can be established classifying everyone with a particular job title as per se exempt or nonexempt—the regulations identify job duties, not job titles."]; *Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4th 319 [exemption must be based on how an employee actually spends his or her time, not on an idealized job description].

37 See Cal. Code of Regs., tit. 8, § 11040, subds. 1(A)(3)(a) [recognized professions], 1(A)(3)(b) [learned or artistic professions].

38 Cal. Code of Regs., tit. 8, § 11040, subd. 1(A)(3)(c).

39 Labor Code, § 515, subd. (e) ["For the purposes of this section, 'primarily' means more than one-half of the employee's worktime."].

40 Cal. Code of Regs., tit. 8, § 11040, subd. 1(A)(3)(a).

41 Cal. Code of Regs., tit. 8, § 11040, subd. 1(A)(3)(a).

42 See *Zelasko-Barrett v. Brayton-Purcell, LLP* (2011) 198 Cal.App.4th 582 [law clerk who graduated from law school but was not yet licensed was employed as an exempt learned professional].

43 Labor Code, § 515.6, subd. (a).

44 Labor Code, § 515.6, subd. (a).

45 Dept. of Industrial Relations, *Overtime Exemption for Licensed Physicians and Surgeons* (Oct. 27, 2025), available here.

46 Labor Code, § 515.6, subd. (b) [the exemption does not apply "to a physician employee covered by a valid collective bargaining agreement pursuant to Section 514"].

47 Cal. Code of Regs., tit. 8, § 11040, subd. 1(A)(3)(f) ["Notwithstanding the provisions of this subparagraph, pharmacists employed to engage in the practice of pharmacy, and registered nurses employed to engage in the practice of nursing, shall not be considered exempt professional employees, nor shall they be considered exempt from coverage for the purposes of this subparagraph unless they individually meet the criteria established for exemption as executive or administrative employees."].

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48 Labor Code, § 515, subd. (f)(1) [“In addition to the requirements of subdivision (a), a registered nurse employed to engage in the practice of nursing shall not be exempted from coverage under the orders of the Industrial Welfare Commission, unless he or she individually meets the criteria for exemptions established for executive or administrative employees.”].

49 Labor Code, § 515, subd. (f)(1); Cal. Code of Regs., tit. 8, § 11040, subd. 1(A)(3)(f). Those tests are explained in our articles on the executive exemption and the administrative exemption.

50 Labor Code, § 515, subd. (f)(2); Cal. Code of Regs., tit. 8, § 11040, subd. 1(A)(3)(g).

51 Labor Code, § 515, subd. (f)(2)(D); Cal. Code of Regs., tit. 8, § 11040, subd. 1(A)(3)(g)(iv).

52 Cal. Code of Regs., tit. 8, § 11040, subds. 1(A)(3)(a), 2(S).

53 See, e.g., *Sullivan v. Oracle Corp.* (9th Cir. 2011) 662 F.3d 1265, 1268.

54 Cal. Code of Regs., tit. 8, § 11040, subd. 2(S) [“'Teaching' means, for the purpose of Section 1 of this order, the profession of teaching under a certificate from the Commission for Teacher Preparation and Licensing or teaching in an accredited college or university.”].

55 *Sullivan v. Oracle Corp.* (9th Cir. 2011) 662 F.3d 1265, 1268.

56 *California School of Culinary Arts v. Lujan* (2003) 112 Cal.App.4th 16.

57 Labor Code, § 515.8, subd. (b)(1).

58 Labor Code, § 515.8, subd. (a).

59 Labor Code, § 515.8, subd. (b)(2).

60 Labor Code, § 515.8, subd. (b)(4).

61 Labor Code, § 515.8, subd. (b)(3)(A)(i).

62 Labor Code, § 515.8, subd. (b)(3)(A)(ii).

63 Labor Code, § 515.8, subd. (b)(3)(B).

64 Labor Code, § 515.8, subd. (b)(3)(A).

65 Labor Code, § 515.8, subd. (d).

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66 Labor Code, § 515.8, subd. (e).

67 Cal. Code of Regs., tit. 8, § 11040, subd. 1(A)(3)(b)(iii).

68 Cal. Code of Regs., tit. 8, § 11040, subd. 1(A)(3)(b)(iii).

69 Cal. Code of Regs., tit. 8, § 11040, subd. 1(A)(3)(b)(i).

70 *Solis v. Washington* (9th Cir. 2011) 656 F.3d 1079, 1084 [“positions that do not require a particular course of intellectual instruction directly related to the employee's professional duties do not come within the 'learned professional' exemption, even if they also require substantial practical experience”].

71 Cal. Code of Regs., tit. 8, § 11040, subd. 1(A)(3)(b)(i).

72 29 C.F.R. § 541.301(e)(7).

73 Cal. Code of Regs., tit. 8, § 11040, subd. 1(A)(3)(b)(ii).

74 Cal. Code of Regs., tit. 8, § 11040, subd. 1(A)(3)(b)(ii).

75 29 C.F.R. § 541.302(b).

76 29 C.F.R. § 541.302(c).

77 29 C.F.R. § 541.302(d).

78 *Nordquist v. McGraw-Hill Broadcasting Co.* (1995) 32 Cal.App.4th 555, 566. By the same token, a broadcast announcer who merely reads the news to a television audience is not engaged in the kind of original and creative work that qualifies for the artistic professional exemption. (*Id.* at 566–567.)

79 Labor Code, § 515, subd. (a); Cal. Code of Regs., tit. 8, § 11040, subd. 1(A)(3)(c) [“Who customarily and regularly exercises discretion and independent judgment in the performance of duties set forth in subparagraphs (a) and (b).”].

80 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.”].

81 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.

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However, employees can exercise discretion and independent judgment even if their decisions or recommendations are reviewed at a higher level.”].

82 *Taylor v. United Parcel Service, Inc.* (2010) 190 Cal.App.4th 1001, 1009.

83 *Taylor v. United Parcel Service, Inc.* (2010) 190 Cal.App.4th 1001, 1010.

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