

Bureau of Labor
and Industries



Employee Classification & Wage and Hour Exemptions

A Handbook for Oregon Employers

2012 Edition



Oregon Bureau of Labor and Industries
Technical Assistance for Employers Program

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14. Resident mobile home park employees

Oregon law		Federal law	
MW	OT	MW	OT
√	√		

Individuals employed for the purpose of maintenance, management or assisting in the management of a mobile home park or manufactured dwelling park and who reside (they need not be “domiciled”) on-site are exempt from minimum wage and overtime ORS 653.020(17).

NOTE: Federal law does not provide a similar exemption. Any employer subject to the FLSA will need to ensure employees receive at least federal minimum wage and any overtime due for hours worked over 40 in a workweek.

15. Salaried executive, administrative or professional employees

Oregon law		Federal law	
MW	OT	MW	OT
√	√	√	√

Among the most commonly applied exemptions are those pertaining to the so-called “white collar” employees, referred to as the “Executive, Administrative and Professional” exemptions. Employers of qualifying “white collar” workers need not apply the requirements set out under minimum wage and overtime law. ORS 653.020(3); 29 U.S.C. § 213(a)(1).

In addition to being among the most commonly used exemptions, however, these exemptions are also among the most frequently misapplied. The misclassification of employees as exempt can of course create substantial potential liability for overtime claims. Misclassification of “white collar” employees often arises from the misconception that an employee with a management title and/or who is paid a salary automatically qualifies for an exemption. In reality, within all three (executive, administrative and professional) categories of the exemption, exempt status requires the performance of specific exempt duties, as well as payment on a salary basis.

Although the “white collar” exemptions are complex, it is critical that employers understand the regulatory criteria for these exemptions before classifying employees as exempt from minimum wage or overtime. The U. S. Supreme Court has long held that if employers claim that an exemption applies to their employees, they must show that the employees fit “plainly and unmistakably within the exemption's terms.” *Arnold v. Ben Kanowsky, Inc.*, 361 U.S. 388, 392 (1960). Both state and federal regulations require that an executive, administrative or professional employee meet a series of duties tests in order to be exempt. If even one requirement of the applicable test is unmet, or the employee does not meet the salary basis test, the employee may not be classified as exempt.

Applicable regulations

The “white collar” exemptions provided for in state and federal statutes are further defined by regulation. Federal regulations are set out in 29 C.F.R. § 541.0-541.710 and apply to both private and state and local government employees. Oregon regulations

defining “white collar” exempt employees are found at OAR 839-020-0004(25), (29) and (30) and OAR 839-020-0005. State and local government agencies are not subject to these state regulations (provided collective bargaining agreements or other laws apply). ORS 653.261(3). State and local government agencies are, however, subject to federal regulation as well as a separate set of state rules for supervisory and professional employees of a public agency. OAR 839-020-0300 to 0350.

Regulatory coverage

Type of employer	Subject to federal regulations	Subject to state regulation (OAR 839-020-0004, 0005)	Subject to state regulation (OAR 839-020-0300-0350)
Private sector employers	Yes	Yes	No
State and local government agencies	Yes	No	Yes

Regulatory Guidance

Oregon’s “white collar” exemptions and the implementing regulations were patterned largely after federal law. Federal regulations, however, provide substantially more detail and interpretive guidance for employers. As always, where there is a conflict between state and federal regulations, employers who are subject to both laws must apply the standard which is most beneficial to the employee.

Executive / Supervisory Exemption

The following table summarizes the requirements for a salaried executive / supervisory employee to qualify for the exemption: