VIDEO TRANSCRIPT

Overtime and Minimum Wage

Welcome to the Nonprofit Labor & Industries Navigator. We make sure you can find your way through worker-related rules to ensure the people delivering your mission are safe, healthy, and secure.

The Washington Department of Labor & Industries sets minimum pay standards. They do this in two ways. They set an hourly minimum wage. They also create pay standards that determine whether or not a worker must earn overtime pay and receive other Minimum Wage Act protections for overtime work.

We are going to explain overtime and minimum wage law in two steps. First, we will talk about people and their roles within our organizations. Then we will apply that understanding to L&I thresholds.

Let's start by talking about people. The circumstances of an individual's employment determine how overtime rules apply to them. We therefore have to ask a few questions to help us know if a worker is eligible for overtime. Here are a few questions that help us to start sorting people:

Are they paid hourly or by a salary?

Are they supervisors? Do they have direct reports whose work they oversee?

Do they exercise discretion or independent judgment?

Do they have advanced knowledge, such as special degrees or special experiences that make them unique from other typical workers?

Let's push on this a little bit more. We want to explore whether someone fits into one of three specific categories that are exempt from overtime pay and Minimum Wage Act protections. There are more specifics to know, but let's cover them in broad strokes.

This first category is **executive**. Is the person working in an executive function? Are they an executive director, or a Program Director with a lot of discretion? Are they managing the organization? Are they directing the work supervising others? Do they have authority to hire and fire and shape strategy?

A second category is **administrative**. Are they leading the finance, accounting, insurance, quality control, procurement, marketing, safety, or HR department? In this category, they are crucial to the general management or operations of the organization. Again, they exercise discretion.

The third category is **professional**. These people are lawyers, doctors, scientists, musicians, writers, among others. They have a specialized knowledge or advanced knowledge that makes them different from others.

Executive, administrative, or professional. Can you say YES to the duties described for each of these categories? If so, they meet the duties test for overtime exemption.

Considering the circumstances of an individual's employment is the first step in knowing if they should be paid for overtime work.

Now, let's take the second step. We're going to look at the L&I thresholds and how they apply.

There are two wage thresholds to understand. The first is the minimum wage threshold. With very few exceptions, it is illegal to pay anyone *below the minimum wage* in Washington State. Certain regions, such as Seattle, have *higher minimum wages*.

So now that we know we can't pay people below that threshold, let's see what we can pay them.

This is where a second wage threshold comes in. The salary threshold sets the minimum compensation required to be eligible for exemption from overtime requirements. In other words, if an employee is paid below this salary threshold, they must be paid overtime. If an employee is paid hourly, that employee must also be paid overtime if the employee works more than 40 hours in a week.

So does that mean that above this salary threshold you automatically are exempt from overtime pay? Hold on. There's more to the story.

There are three questions we have to ask. Luckily, we have already asked them.

First, is the employee paid a predetermined fixed salary? We know that hourly employees are paid overtime.

Second, is the employee paid above the salary threshold? We know that below the overtime wage threshold requires overtime pay, whether or not employees are paid a regular salary.

Third, does the employee meet the duties test? Remember when we talked about executive, administrative, or professional duties? If you answer YES to those questions for one of those categories, your person could be exempt from overtime pay and other Minimum Wage Act benefits. We say "could be" because it is up to the employer to use the classification.

If you answer NO to any of those questions, your person is not exempt. In other words, they need to be paid for overtime work.

In summary, when thinking about overtime, make sure you know how the person is paid, what they are paid, and what their job is.

Learn more about worker-related rules by downloading the Nonprofit Labor & Industries guide at https://www.nonprofitlearning.center/LNI.