

California's Administrative Exemption

Both Federal and California law provide overtime pay exemption qualifications for certain roles depending on their duties and salary. For the **Administrative Exemption**, the California requirements differ from the federal requirements, and it is important for employers to know which qualifications to consider when determining whether or not to classify an employee as “exempt”.

As California law provides a greater extent of protection for employees, employers must follow the California requirements when determining whether or not a California position qualifies as exempt.

In order to qualify as exempt, the position must meet the requirements of **two tests**: the “Duties Test” and the “Salary Test.” You must first determine if the position qualifies as exempt under the Duties Test. Only once you have determined that the position may qualify under the Duties Test of the Administrative Exemption can you move on to the “Salary Test.”

The Duties Test

In order to qualify as exempt under the Duties Test for the Administrative Exemption, an employee must:

1. Regularly and customarily exercise discretion and independent judgment with respect to matters of significance in performing their job (e.g., approving Company policies, determining business strategies, making investment decisions, etc.); **and**
2. Perform non-manual or office work that is directly related to general operations of the business or the employer's management policies (e.g., negotiating on the Company's behalf, deciding employee hiring and termination, developing budgets, etc.); **or**
3. Perform as their primary job duties work in the administration of a school or education establishment, where the work is related directly to academic instruction (e.g., developing curriculum, administering assessments, providing instructional support to teachers or students, etc.).

In addition, the employee must primarily (more than 50% of their time) be engaged in one of the following:

1. Regularly and directly assisting a proprietor or an employee who is employed in a bona fide executive or administrative capacity (e.g., the Principal of a school, the Chief Financial Officer of a corporation, the General Manager of a restaurant, etc.); **or**
2. Performing specialized or technical work under only general supervision that requires special training, experience, or knowledge (e.g., providing counseling services, specialized training or lessons, or financial and investment advice); **or**
3. Executing special assignments or tasks under only general supervision.

“Regularly and customarily exercise discretion and independent judgment with respect to matters of significance” means the employee is responsible for and has the authority to make significant decisions and choices that affect the Company in a significant matter after evaluating possible courses of action. The discretion and independent judgment must be directly related to their job duties above. Simply making decisions does not reach the level required for the exemption.

An employee applying their knowledge or skill to their job duties does not necessarily mean they are exercising discretion and independent judgment. As an example, a buyer who purchases the inventory a hardware store will sell can be considered exercising discretion and independent judgment in matters of significance if they are those ones looking at the previous inventory and sales reports to determine what sold well, what is expected to sell in the coming season, and making the decision on what to purchase, in what quantities, and negotiating the terms of the sale with the distributors.

The Salary Test

If the employee passes the Duties Test, you must then determine that you are paying them the correct minimum salary in order for them to qualify as exempt. For 2023, the minimum exempt salary is **\$64,480.00/year**.