

West Virginia Division of Labor

Minimum Wage & Overtime Requirements

West Virginia Division of Labor Wage & Hour Section

Minimum Wage & Overtime Fact Sheet 4 - West Virginia Code Chapter 21, Article 5C (July 2017)

THE ADMINISTRATIVE EMPLOYEE EXEMPTION

West Virginia's Minimum Wage and Maximum Hour Standards exempt certain categories of workers from minimum wage and maximum hour (overtime) coverage. One of those exemptions applies to administrative employees. Any individual that meets all of the criteria necessary to qualify for the administrative employee exemption would not be covered by state minimum wage or overtime requirements, regardless of the number of hours worked.

ADMINISTRATIVE EMPLOYEE DEFINED

For an employer to claim the "Administrative Employee" exemption for one of its workers, that individual must meet ALL of the conditions stated below. Should any one of these conditions not be met, the exemption cannot be claimed. §42CSR8-11

- The employee is compensated at a salary or fee basis at a rate of at least \$455.00 per workweek (§42CSR8-11a), and
- The employee's primary duty is the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers (§42CSR8-11b), and
- The employee's primary duty includes the exercise of discretion and independent judgment with respect to matters of significance. §42CSR8-11c

Federal Jurisdiction vs. State

Should 80 percent of a company's employees be covered under the federal minimum wage and overtime requirements of the Fair Labor Standards Act (FLSA), the requirements of state law will not apply. When an employer does not meet the 80 percent employee requirement or does not otherwise qualify for FLSA coverage, the requirements of state law will only apply to those locations or business establishments where at least six non-exempt (hourly) employees are working. See *Overtime Fact Sheet 1*.

Any questions relating specifically to federal coverage should be addressed directly to the Wage & Hour Division of the United States Department of Labor (USDOL).

USDOL Contact Information is as follows: 1-866-4-USA-DOL (1-866-487-2365) or www.dol.gov.