

New Jersey Wage & Hour Facts

The following general guidelines provide an overview of the New Jersey Wage Payment Law and Wage and Hour Law. These guidelines address only the requirements of New Jersey law.

Federal law imposes additional requirements applicable to New Jersey employers, such as, for example, the revised overtime rules implemented under the federal Fair Labor Standards Act (FLSA), which took effect nationwide on August 23, 2004. Employers must comply with the requirements of federal and state law, which are not always the same. Where federal and state law differ, employers must follow the rule that provides the greater benefit to the employee.

Basic Wage Standards

Effective January 1, 2020, the minimum wage in New Jersey will be increased to \$11.00 per hour for most employers and \$10.30 per hour for smaller employers (less than six employees) and seasonal employees. Annual cost-of-living increases tied to the Consumer Price Index (CPI) will be calculated every September and applied to the minimum wage. The New Jersey Wage and Hour Law (the Law) contains various exceptions to these minimum rates, such as those for certain student workers and other employees, and employers should consult the Law to determine whether any apply to their employees.

Overtime pay at a rate of not less than one and one-half times the regular rate of pay is required after 40 hours of work in a work week.

All wages are due to be paid on the regular payday for the pay period covered, which must occur at least twice during each calendar month for most employees. Paydays for certain executives, supervisors and other special classifications of employees may be less frequent than twice per month. Only certain deductions from wages lawfully may be made, and those deductions are set out in detail in the Wage Payment Law. Deductions cannot reduce gross pay below minimum wage.

While New Jersey law regulates employment practices such as the basic minimum wage and overtime pay standards, certain aspects of the employment relationship are not regulated. For example, the New Jersey Wage and Hour Law does not require:

1. Vacation, holiday or severance
2. Meal or rest periods for workers 18 years of age or older
3. Time off for holidays or vacations
4. Pay raises or fringe benefits
5. Premium pay for weekend or holiday work
6. A discharge notice, reason for discharge or immediate payment of final wages to discharged employees



New Jersey law does not limit the number of hours (regular or overtime) in a day or days in a week an employee may be required or scheduled to work if the employee is at least 18 years old, with the exception of health care workers. New Jersey does impose certain restrictions on the overtime that may be worked by those in the health care field.

Exemptions

Some employees are exempt from minimum wage and/or overtime pay requirements. Because exemptions generally are narrowly defined, employers should carefully check the exact terms and conditions for each exemption under both federal and New Jersey law to determine whether employees are exempt from overtime requirements. The specific salary and duty requirements of the New Jersey exemptions are summarized on the reverse side of this page. Effective September 6, 2011, New Jersey's exemptions were amended to mirror the exemptions established under federal law, thereby allowing employees to meet the exemption tests under both.

Recordkeeping

New Jersey law requires employers to keep records on wages, hours and other items. Most of the information is of the kind normally maintained by employers in the ordinary course of business and in compliance with other laws and regulations. The records do not have to be kept in any particular form, and time clocks are not required. The following records, among others, must be kept for six years from the date of entry for all employees subject to the minimum wage and/or overtime pay requirements:

1. Name and home address, and, for employees under 18 years of age, birth date
2. Total hours worked each workday and each workweek
3. Total gratuities received by each employee receiving gratuities
4. Additions to wages
5. Total earnings, including the regular hourly wage, gross and net amounts with itemized deductions, and the basis on which wages are paid

Wage And Hour Exemptions Under New Jersey State Law

Executive
N.J.A.C. 12:56-7.2
(29 C.F.R.
§ 541.100, *et seq.*)

- Compensation on a salary basis of no less than \$684/week exclusive of board, lodging or other facilities;
- Primary duty is the management of the enterprise in which the employee is employed, or a recognized department or subdivision thereof;
- Customarily and regularly directs the work of two (2) or more other employees; and
- Has the authority to hire or fire other employees (or make such recommendations regarding hiring, firing, advancement, promotion or other change of status that are given particular weight).

Administrative
N.J.A.C. 12:56-7.2
(29 C.F.R.
§ 541.200, *et seq.*)

General Administrative Exemption

- Compensation on a salary basis of no less than \$684/week exclusive of board, lodging or other facilities;
- Primary duty is the performance of office or non-manual work directly related to the management or general business operations of the employer or its customers as distinguished from work on production line or retail sales; and
- Primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

Inside Sales Exemption

- An employee whose primary duty consists of sales activity and who receives at least 50 percent of his or her total compensation from commissions and a total compensation of not less than \$400.00 per week.

Professional
N.J.A.C. 12:56-7.2
(29 C.F.R.
§ 541.300, *et seq.*)

Learned Professional

- Compensation on a salary basis of no less than \$684/week exclusive of board, lodging or other facilities;
- Primary duty is the performance of work requiring an advanced knowledge (work that is predominantly intellectual in character and that includes work requiring the consistent exercise of discretion and judgment, as distinguished from the performance of routine, mental, manual, mechanical or physical work);
- The advanced knowledge must be in a field of science or learning; and
- The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

Creative Professional

- Compensation on a salary basis of no less than \$684/week exclusive of board, lodging or other facilities; and
- Primary duty is the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor such as music, writing, acting and graphic arts, as distinguished from routine, manual, mechanical or physical work.

Computer Professional
N.J.A.C. 12:56-7.2
(29 C.F.R.
§ 541.400, *et seq.*)

- Compensation either on a salary or fee basis at a rate no less than 684/week or, if compensated on an hourly basis, at a rate no less than \$27.63/hour;
- Employed as a computer systems analyst, computer programmer, software engineer or other similarly skilled worker in a computer field; and
- Primary duty must consist of:
 1. The application of systems analysis techniques and procedures, including consulting with users to determine hardware, software or system functional specifications;
 2. The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes based on and related to user and system design specification;
 3. The design, documentation, testing, creation or modification of computer programs related to machine operating system; or
 4. A combination of the aforementioned duties, the performance of which requires the same level of skills.

Outside Sales
N.J.A.C. 12:56-7.2
(29 C.F.R.
§ 541.500, *et seq.*)

- Primary duty is making sales (defined as the sale, exchange, contract to sell, consignment for sale, shipment for sale or other disposition), obtaining orders or contracting for services or for the use of facilities for which consideration will be paid by client or customer; and
- Customarily and regularly engaged away from the employer's place or places of business.

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FLSA Facts

What Does the Fair Labor Standards Act Require? Who Is Exempt From Overtime?

The following general guidelines provide an overview of both the requirements of the FLSA and the exemptions from its overtime provisions.

The Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay, recordkeeping and child labor standards affecting workers in the private sector and in federal, state and local governments. Individual states can impose more stringent requirements, and employers must consider state law in conjunction with the FLSA. Where federal and state law differ, employers must follow the rule that provides the greater benefit to the employee.

Basic Wage Standards

Covered nonexempt workers are entitled to a minimum wage of not less than \$7.25 an hour. State minimum wage laws may differ. Overtime pay at a rate of not less than one and one-half times the regular rate of pay is required after 40 hours of work in a workweek.

All wages are due to be paid on the regular payday for the pay period covered. Only certain deductions from wages may be made, and those deductions are set out in detail in the FLSA. Deductions from wages for such items as cash or merchandise shortages, employer-required uniforms and tools of the trade are not legal to the extent that they reduce the wages of employees below the minimum rate required by the FLSA or reduce the amount of overtime pay due under the FLSA. These and certain other deductions also may be prohibited under state laws.

While the FLSA does set basic minimum wage and overtime pay standards and regulates the employment of minors, there are a number of employment practices that the FLSA does not regulate. For example, the FLSA does not require:

1. Vacation, holiday, severance or sick pay;
2. Meal or rest periods, holidays off or vacations;
3. Premium pay for weekend or holiday work;
4. Pay raises or fringe benefits; and
5. A discharge notice, reason for discharge or immediate payment of final wages to terminated employees.

Also, the FLSA does not limit the number of hours in a day or days in a week an employee may be required or scheduled to work, including overtime hours, if the employee is at least 18 years old.

Exemptions

Some employees are exempt from the overtime pay provisions or both the minimum wage and overtime pay provisions.

Because exemptions are generally narrowly defined under the FLSA, an employer should carefully check the exact terms and conditions for each exemption to see if it applies. See the reverse side of this page for the salary and duty requirements of certain exemptions under the FLSA.

Other exemptions may apply in specific industries. State law may apply different tests for the exemptions, and employees must meet the tests under both federal and state law to be exempt.

Recordkeeping

The FLSA requires employers to keep records on wages, hours and other items, as specified in the U.S. Department of Labor's recordkeeping regulations. Most of the information is of the kind generally maintained by employers in ordinary business practice and in compliance with other laws and regulations. The records do not have to be kept in any particular form and time clocks need not be used. With respect to an employee subject to the minimum wage provisions or both the minimum wage and overtime pay provisions, the following records must be kept:

1. Personal information, including employee's name, home address, occupation, sex and birth date if under 18 years of age;
2. Hour and day when workweek begins;
3. Total hours worked each workday and each workweek;
4. Total daily or weekly straight-time earnings;
5. Regular hourly pay rate for any week when overtime is worked;
6. Total overtime pay for the workweek;
7. Deductions from or additions to wages;
8. Total wages paid each pay period; and
9. Date of payment and pay period covered.

State law may require additional record keeping.

Wage And Hour Exemptions Under The Fair Labor Standards Act

Executive 29 C.F.R. § 541.100, *et seq.*

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- Primary duty is the management of the enterprise in which the employee is employed, or a recognized department or subdivision thereof;
- Customarily and regularly directs the work of two (2) or more other employees; and
- Has the authority to hire or fire other employees (or make such recommendations regarding hiring, firing, advancement, promotion or other change of status that are given particular weight).

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General Administrative Exemption

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- Primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

Inside Sales Exemption (Section 7(i))

An employer can only use the inside sales overtime exemption for a commissioned employee if three conditions are met:

1. The employee must be employed by a retail or service establishment; and
2. The employee's regular rate of pay must exceed one and one-half times the applicable minimum wage for every hour worked in a workweek; and
3. More than half the employee's total earnings in a representative period must consist of commissions on goods or services.

For purposes of the inside sales exemption, a business is considered a retail or service establishment when:

1. Seventy-five percent (75%) of the annual dollar volume of the sales of goods or services (or of both) come from sales that are not resale; and
2. The sales of goods or services (or of both) are recognized as retail sales in the particular industry.

Professional 29 C.F.R. § 541.300, *et seq.*

Learned Professional

- Compensation on a salary basis of no less than \$684/week exclusive of board, lodging or other facilities;
- Primary duty is the performance of work requiring an advanced knowledge (work that is predominantly intellectual in character and that includes work requiring the consistent exercise of discretion and judgment, as distinguished from the performance of routine, mental, manual, mechanical or physical work);
- The advanced knowledge must be in a field of science or learning; and
- The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

Creative Professional

- Compensation on a salary basis of no less than \$684/week exclusive of board, lodging or other facilities; and
- Primary duty is the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor such as music, writing, acting and graphic arts, as distinguished from routine, manual, mechanical or physical work.

Computer Professional 29 C.F.R. § 541.400, *et seq.*

- Compensation either on a salary or fee basis at a rate no less than \$684/week or, if compensated on an hourly basis, at a rate no less than \$27.63/hour;
- Employed as a computer systems analyst, computer programmer, software engineer or other similarly skilled worker in a computer field; and
- Primary duty must consist of:
 1. The application of systems analysis techniques and procedures, including consulting with users to determine hardware, software or system functional specifications;
 2. The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes based on and related to user and system design specification;
 3. The design, documentation, testing, creation or modification of computer programs related to machine operating system; or
 4. A combination of the aforementioned duties, the performance of which requires the same level of skills.

Outside Sales 29 C.F.R. § 541.500, *et seq.*

- Primary duty is making sales (defined as the sale, exchange, contract to sell, consignment for sale, shipment for sale or other disposition), obtaining orders or contracting for services or for the use of facilities for which consideration will be paid by client or customer; and
- Customarily and regularly engaged away from the employer's place or places of business.

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