

(Effective until July 1, 2020)

WAC 296-128-520 Administrative. The term "individual employed in a bona fide . . . administrative . . . capacity" in RCW 49.46.010 (5)(c) shall mean any employee:

(1) Whose primary duty consists of the performance of office or nonmanual field work directly related to management policies or general business operations of his employer or his employer's customers; or

(2) The performance of functions in the administration of a school system, or educational establishment or institution, or of a department or subdivision thereof, in work directly related to the academic instruction or training carried on therein; and

(3) Who customarily and regularly exercises discretion and independent judgment; and

(a) Who regularly and directly assists a proprietor, or an employee employed in a bona fide executive or administrative capacity (as such terms are defined in this regulation), or

(b) Who performs under only general supervision work along specialized or technical lines requiring special training, experience or knowledge, or

(c) Who executes under only general supervision special assignments and tasks; and

(4) Who does not devote more than 20 percent, or, in the case of an employee of a retail or service establishment who does not devote as much as 40 percent of his hours worked in the work week to activities which are not directly and closely related to the performance of the work described in paragraphs (1) through (3) of this section; and

(a) Who is compensated for his services on a salary or fee basis at a rate of not less than \$155 per week exclusive of board, lodging, or other facilities; or

(b) Who, in the case of academic administrative personnel is compensated for his services as required by paragraph (4)(a) of this section, or on a salary basis which is at least equal to the entrance salary for teachers in the school system, educational establishment, or institution by which he is employed: Provided, That an employee who is compensated on a salary or fee basis at a rate of not less than \$250 per week (exclusive of board, lodging, or other facilities), and whose primary duty consists of the performance of office or nonmanual work directly related to management policies or general business operations of his employer or his employer's customers; which includes work requiring the exercise of discretion and independent judgment, shall be deemed to meet all of the requirements of this section.

[Order 76-5, § 296-128-520, filed 2/24/76.]

(Effective July 1, 2020)

WAC 296-128-520 Administrative. (1) The term "individual employed in a bona fide ... administrative ... capacity" in RCW 49.46.010 (3)(c) shall mean any employee:

(a) Whose primary duty is the performance of office or nonmanual work directly related to the management or general business operations of the employer or the employer's customers;

(b) Whose primary duty includes the exercise of discretion and independent judgment with respect to matters of significance; and

(c) Who is compensated on a salary or fee basis at a rate of not less than the amount specified in WAC 296-128-545, exclusive of board, lodging, or other facilities.

(2) The term "individual employed in a bona fide ... administrative ... capacity" in RCW 49.46.010 (3)(c) shall also include any employee:

(a) Whose primary duty is performing administrative functions directly related to academic instruction or training in an educational establishment or department or subdivision thereof; and

(b) Who is compensated on a salary or fee basis at a rate of not less than the amount specified in WAC 296-128-545, exclusive of board, lodging, or other facilities, or on a salary basis which is at least equal to the entrance salary for teachers in the educational establishment by which they are employed.

(3) For the purposes of this section:

(a) To qualify for the administrative exemption, an employee's primary duty must be the performance of work directly related to the management or general business operations of the employer or the employer's customers. "Directly related to management or general business operations" means work directly related to assisting with the running or servicing of the business, as distinguished, for example, from working on a manufacturing production line or selling a product in a retail or service establishment.

(b) "Discretion and independent judgment" means the comparison and the evaluation of possible courses of conduct, and acting or making a decision after the various possibilities have been considered. The phrase "discretion and independent judgment" must be applied in the light of all the facts involved in the particular employment situation in which the question arises. The exercise of discretion and independent judgment implies that the employee has the authority to make an independent choice, free from immediate direction or supervision. However, employees can exercise discretion and independent judgment even if their decisions or recommendations are reviewed at a higher level. The exercise of discretion and independent judgment must be more than the use of skill in applying well-established techniques, procedures or specific standards described in manuals or other sources. The exercise of discretion and independent judgment also does not include clerical or secretarial work, recording or tabulating data, or performing other mechanical, repetitive, recurrent or routine work.

(c) "Performing administrative functions directly related to academic instruction or training" means work related to the academic operations and functions in a school rather than to administration along the lines of general business operations. Such academic administrative functions include operations directly in the field of education. Jobs relating to areas outside the educational field are not within the definition of academic administration.

[Statutory Authority: RCW 49.46.010 (3)(c). WSR 20-01-063, § 296-128-520, filed 12/10/19, effective 7/1/20; Order 76-5, § 296-128-520, filed 2/24/76.]