



# OVERTIME WAGES & THE FLSA

The Congressional Accountability Act of 1995, amended by the 2018 Reform Act (collectively, CAA), applies the Fair Labor Standards Act of 1938 to House employees. As a result, a House employee is entitled to overtime pay at one and one-half times the employee's regular rate of pay for hours worked in excess of 40 hours in a workweek UNLESS the employee falls into an exempt category.

## EXEMPTIONS

**Minimum salary requirement: \$684/week or \$35,568 annually (exceptions apply). Computer employees can meet this requirement when paid \$27.63/hour or more.**

### EXECUTIVE EXEMPTION

The executive exemption applies to House employees who meet the minimum salary requirement and perform a primary duty that includes the management of the employing office or department.

The employee must customarily and regularly direct the work of two or more employees, and must possess the authority to hire and fire or recommend a change to the status of other employees.

### ADMINISTRATIVE EXEMPTION

The administrative exemption applies to House employees who meet the minimum salary requirement and perform a primary duty that involves office or non-manual work directly related to the management policies or general business operations of the employing office, customers, or constituents.

The House employee's primary duty must also include the exercise of discretion and independent judgment with respect to matters of significance. Routine administrative work or secretarial work typically does not meet this exemption.

### PROFESSIONAL EXEMPTIONS

The CAA exempts two categories of professionals from overtime.

#### LEARNED PROFESSIONAL

The learned professional exemption applies to House employees who meet the minimum salary requirement and perform a primary duty that requires advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction (e.g., an attorney, teacher, engineer, or accountant).

#### CREATIVE PROFESSIONAL

The creative professional exemption applies to House employees who meet the minimum salary requirement and perform a primary duty requiring invention, imagination, originality, or talent - as opposed to routine mental, manual, mechanical or physical work - in a recognized field of artistic or creative endeavor. The exemption does not apply to work which can be produced by a person with general ability (manual or intellectual) and general training.

### COMPUTER EMPLOYEES EXEMPTION

The computer employees exemption applies to Information Technology (IT) professionals who meet the minimum salary requirement and whose primary duty involves advanced tasks, such as software or hardware development, or network engineering. This exemption typically does not include employees performing help desk or basic IT support.

## FREQUENTLY ASKED QUESTIONS

**Q: Can I be entitled to overtime if I am salaried?**

**A:** YES. Salaried pay does not determine whether a House employee is entitled to overtime pay under the CAA. Each case is fact specific and depends on whether the employee falls under any of the exempt categories.

**Q: Can my employer give me time off in lieu of paying me overtime?**

**A:** YES. Time off may be given at an hour and a half rate in lieu of overtime pay **IF** the time off is given in the same pay period. If an employee is unable to use their time off before the end of the pay period, the employee is entitled to their standard overtime pay rate for the remaining balance of excess hours worked (exceptions apply).

**Q: Do I have to take a lunch break? If so, is it paid?**

**A:** The CAA does not require employing offices to provide lunch breaks. However, employing offices can require employees to take unpaid lunch breaks. The CAA requires that a House employee be paid for a lunch break if they are working or are required to work through the break.

**Q: Does my position title determine whether I'm entitled to overtime?**

**A:** No. Job titles do not determine whether an employee is exempt or non-exempt from overtime. A House employee's entitlement to overtime depends on their job requirements and job duties, which determine whether they fall under any of the exemptions.

**Q: Is overtime calculated by each day or by the work week?**

**A:** Overtime is calculated workweek to workweek, not just when an employee works more than eight hours per day. Thus, a non-exempt employee is entitled to overtime when the employee works more than a total of 40 hours in the whole workweek, not more than 8 hours per day.

## BEST PRACTICES

- If you are non-exempt or suspect you may be non-exempt, keep track of your hours worked each day.
- Find out when your office's workweek begins and ends. This is important when calculating how much overtime you may be entitled to.



Have questions or concerns? Contact the Office of Employee Advocacy. We are here to help.

Phone: 202-225-8800  
Email: [Employee.Advocacy@mail.house.gov](mailto:Employee.Advocacy@mail.house.gov)