

COMPUTER EMPLOYEE EXEMPTION

To qualify for the computer employee exemption, the following tests must be met:

- The employee must be compensated either on a salary or fee basis at a rate not less than \$455 per week or, if compensated on an hourly basis, at a rate not less than \$27.63 an hour; and
- The employee must be employed as a computer systems analyst, computer programmer, software engineer or other similarly skilled worker in the computer field performing the duties described below:
 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 or system design specifications;
 3. The design, documentation, testing, creation or modification of computer programs related to machine operating systems; or
 4. A combination of the aforementioned duties, the performance of which requires the same level of skills.

TERMS DEFINED:

Salary Basis- Being paid on a “salary” basis means an employee regularly receives a predetermined amount of compensation each pay period on a weekly, or less frequent, basis. The predetermined amount cannot be reduced because of variations in the quality or quantity of the employee’s work. Subject to exceptions listed below, an except employee must receive the full salary for any week in which the employee performs any work, regardless of the number of days or hours worked

Primary Duty- “Primary duty” means the principal, main, major or most important duty that the employee performs. Determination of an employee’s primary duty must be based on all the facts in a particular case, with the major emphasis on the character of the employee’s job as a whole.

Appalachian State University
New Guidelines Regarding the Fair Labor Standards Act (FLSA)
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Other Considerations:

1. The computer employee exemption **does not include** employees engaged in the manufacture or **repair of computer hardware and related equipment**.
2. Employees whose work is highly dependent upon, or facilitated by, the use of computers and computer software programs (e.g., engineers, drafters and others skilled in computer-aided design software), but who are not primarily engaged in computer systems analysis and programming or other similarly skilled computer-related exempt under the computer employee exemption occupations identified in the primary duties test described above, are **not exempt** under the computer employee exemption.