

What are California's unique overtime rules?

Is overtime pay due for long days even if workweek doesn't exceed 40 hours?

Q. Do I have to pay overtime to an employee who works more than eight hours a day but less than 40 hours of work per week?

A. California wage-and-hour law tends to be more protective of employees than other states' laws or the laws of the federal government.

Unlike federal law, which only entitles employees to overtime pay if they work more than 40 hours per week, California requires that employees receive overtime pay at one and a half times the regular rate of pay if they work more than eight hours in a workday. That applies even if the employee does not work more than 40 hours in the workweek.

Note that California law also requires employers to pay overtime at a rate of one and a half times the regular rate of pay if an employee works more than 40 hours in a workweek or works a seventh day in a row in a workweek.

Employees are entitled to double the regular rate of pay if they work in excess of 12 hours in a single day or if they work more than eight hours on the seventh day of work in a row in a workweek.

As is often the case with California law, these rules do not apply in all circumstances. For example, these overtime requirements do not apply to exempt employees or employees operating under valid collective bargaining agreements providing for overtime. Also exempt from the rules are employers that follow certain alternative workweek schedules, employees making up time, *de minimis* time or employees in certain industries.

Can salaried employees earn overtime pay?

Q. Is it true that there are some cases in which I have to pay overtime to salaried employees?

A. A common misconception in California wage-and-hour law is that salaried employees aren't entitled to overtime. This isn't always true.

Whether someone must receive overtime pay is not determined by the method of payment; it is determined by his or her status as an exempt or nonexempt employee. "Exempt" employees are exempt from overtime requirements.

But, if a salaried nonexempt employee works in excess of eight hours in a day, six days in a week or 40 hours a week, they are entitled to overtime pay just like any other nonexempt employee who is paid on an hourly basis. The only difference is that the regular rate of pay must be calculated differently for a salaried employee.

What if an employee volunteers for overtime?

Q. Do I have to pay overtime to a nonexempt employee when he or she volunteers to work additional hours?

A. California employers must pay overtime even if an employee volunteers to work additional hours without an expectation he or she will be paid.

An employee must be paid for all of the time they were “suffered or permitted to work, whether or not required to do so.” An employee cannot waive this right.

Furthermore, an employer may be required to pay overtime even if it did not authorize the employee to work past regular shift hours. To prevent employees from choosing to work overtime of their own accord—resulting in the employer paying unexpected overtime—many employers implement policies penalizing employees who work overtime without a supervisor’s permission.