

academic administrative functions. Although such work is not considered academic administration, such employees may qualify for exemption under § 541.200 or under other sections of this part provided the requirements for such exemptions are met.

Subpart D—Professional Employees

§ 541.300 General rule for professional employees.

(a) The term “employee employed in a *bona fide* professional capacity” in section 13(a)(1) of the Act shall mean any employee:

(1) Compensated on a salary or fee basis at a rate of not less than \$425 per week (or \$360 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging, or other facilities; and

(2) With a primary duty of performing office or non-manual work:

(i) Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction, but which also may be acquired by alternative means such as an equivalent combination of intellectual instruction and work experience; or

(ii) Requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor.

(b) The term “salary basis” is defined at § 541.602; “fee basis” is defined at § 541.605; “board, lodging or other facilities” is defined at § 541.606; and “primary duty” is defined at § 541.700.

§ 541.301 Learned professionals.

(a) Learned professionals must have a primary duty of performing office or non-manual work requiring advanced knowledge in a field of science or learning. The term “advanced knowledge” means knowledge that is customarily acquired through a prolonged course of specialized intellectual instruction, but which also may be acquired by alternative means such as an equivalent combination of intellectual instruction and work experience. The learned professions include the professions of law, medicine, theology, teaching, accounting, actuarial computation, engineering, architecture, various types of physical, chemical and biological sciences, pharmacy, and other similar occupations that have a recognized professional status based on the acquirement of advanced knowledge and performance of work that is predominantly intellectual in character as opposed to routine, mental, manual, mechanical or physical work.

(b) The phrase “knowledge of an advanced type” means knowledge that cannot be attained at the high school level.

(c) The phrase “field of science or learning” distinguishes the learned professions from the mechanical arts where in some instances the knowledge is of a fairly advanced type, but not in a field of science or learning.

(d) The phrase “customarily acquired by a prolonged course of specialized intellectual instruction” generally restricts the exemption to professions where specialized academic training is a standard prerequisite for entrance into the profession. The best prima facie evidence that an employee meets this requirement is possession of the appropriate academic degree. However, the word “customarily” means that the exemption is also available to employees in such professions who have substantially the same knowledge level as the degreed employees, but who attained such knowledge through a combination of work experience, training in the armed forces, attending a technical school, attending a community college or other intellectual instruction.

(e) The following professions have been found by the Administrator generally to meet the primary duty requirement for learned professionals in § 541.300(b)(1):

(1) *Registered or certified medical technologists.* Registered or certified medical technologists who have successfully completed three academic years of pre-professional study in an accredited college or university plus a fourth year of professional course work in a school of medical technology approved by the Council of Medical Education of the American Medical Association.

(2) *Registered nurses.* Nurses who are registered by the appropriate State examining board.

(3) *Dental hygienists.* Dental hygienists who have successfully completed four academic years of pre-professional and professional study in an accredited college or university approved by the Commission on Accreditation of Dental and Dental Auxiliary Educational Programs of the American Dental Association.

(4) *Physician assistants.* Physician assistants who have successfully completed three years of pre-professional study (or 2,000 hours of patient care experience in a military or civilian occupation such as laboratory technology, nursing, psychology, biology, or related activity) plus not less than one year of professional course work in a medical school or hospital.

(5) *Accountants.* Certified public accountants, except in unusual cases, meet the primary duty requirement for the learned professional exemption. In addition, many other accountants who are not certified public accountants but perform similar job duties may qualify as exempt learned professionals.

However, accounting clerks and other employees who normally perform a great deal of routine work generally will not qualify as exempt professionals.

(6) *Chefs.* Chefs, such as executive chefs and sous chefs, who have attained a college degree in a culinary arts program, meet the primary duty requirement for the learned professional exemption.

(f) Professional occupations do not include those whose duties may be performed with the general knowledge acquired by an academic degree in any field or with knowledge acquired through an apprenticeship or from training in routine mental, manual or physical processes. Thus, for example, the professional exemption does not apply to occupations such as carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremens, construction workers, teamsters and other employees who perform manual work that does not require an advanced academic degree.

(g) The areas in which professional exemptions may be available are expanding. As knowledge is developed, academic training is broadened and specialized degrees are offered in new and diverse fields, thus creating new specialists in particular fields of science or learning. When a specialized degree has become a standard requirement for a particular occupation, that occupation may have acquired the characteristics of a learned profession.

§ 541.302 Creative professionals.

(a) Creative professionals must have a primary duty of performing office or non-manual work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor as opposed to routine mental, manual, mechanical or physical work. The exemption does not apply to work which can be produced by a person with general manual ability and training.

(b) To qualify for exemption as a creative professional, the work performed must be “in a recognized field of artistic or creative endeavor.” This includes such fields as music, writing, acting and the graphic arts.

(c) The requirement of “invention, imagination, originality or talent” distinguishes the creative professions from work that primarily depends on