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## New Jersey Conforms to the Federal Regulations Governing Exemptions from Overtime Requirements

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The New Jersey Department of Labor and Workforce Development has adopted by reference the Fair Labor Standards Act (FLSA) regulations addressing exemptions from overtime requirements for executive, administrative, professional and outside sales employees in the private sector. With the exception of certain federal regulations applicable to government employees, which have not been adopted, New Jersey's regulations governing overtime exemptions now conform to the federal regulations at 29 C.F.R. Part 541.

Though New Jersey's prior exemptions largely conformed to the federal standards, they differed in some respects. Notably, New Jersey's former regulations required an exempt employee to spend no more than 20 percent of his or her time on non-exempt tasks. Now, an employer need only show that the employee's "primary duty" consists of exempt work. Primary duty means the principal or major duty. In general, the employee must spend more than 50 percent of his or her time performing non-exempt work, depending on certain other considerations.

Further, the New Jersey regulations required that nearly all exempt employees exercise discretion and independent judgment in the performance of their job duties. Under the federal standards, only those employees qualifying for the administrative exemption must be shown to exercise discretion and independent judgment in their work with regard to matters of significance to the employer.

In sum, with the adoption of 29 C.F.R. Part 541, New Jersey employers need only follow the FLSA's criteria for determining exemptions. While this recent amendment to New Jersey's Wage and Hour Laws is meant to clarify standards for exemption from state overtime requirements, the classification of employees as exempt or non-exempt remains a sensitive and often complex issue.

*If you have any questions or concerns as to how to classify employees, please call [Amy Komoroski Wiwi](#) or [Cristina Baragona](#) at 973.597.2500. We also would be pleased to provide you with assistance with respect to other employment practices and workplace compliance issues.*

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