

§ 12:56-7.3 Definition of professional

(a) "Professional" means any employee:

1. Whose primary duty consists of the performance of 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 and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes; or
 - ii. Which is original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the invention, imagination or talent of the employee; or
 - iii. Which requires theoretical and practical application of highly-specialized knowledge in computer systems analysis, programming, and software engineering, and who is employed and engaged in these activities as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer software field, as provided in 29 C.F.R. 541.303; and
2. Whose work requires the consistent exercise of discretion and judgment in its performance; and
3. Whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical or physical work) and is of such a character that the output produced or the result accomplished cannot be standardized to a given period of time; and
4. Who devotes less than 20 percent of his or her workweek to nonexempt work; and
5. Who is compensated for his or her services on a salary or fee basis, exclusive of gratuities, board, lodging or other facilities at a rate of not less than \$ 300.00 per week effective November 5, 1990, \$ 350.00 per week effective April 1, 1991 and \$ 400.00 per week effective April 1, 1992.