

**§ 551.206**

**5 CFR Ch. I (1-1-03 Edition)**

(1) Employees in positions properly classified in the General Schedule at GS-5 or GS-6 (or the equivalent level in other comparable white-collar pay systems);

(2) Firefighting or law enforcement employees in positions properly classified in the General Schedule at GS-7, GS-8, or GS-9 who are subject to section 207(k) of title 29, United States Code; and

(3) Supervisors in positions properly classified in the Federal Wage System below situation 3 of Factor I of the *Federal Wage System Job Grading Standard for Supervisors* (or the equivalent level in other comparable wage systems).

**§ 551.206 Administrative exemption criteria.**

An *administrative employee* is an advisor or assistant to management, a representative of management, or a specialist in a management or general business function or supporting service and meets all four of the following criteria:

(a) *Primary duty test.* The primary duty test is met if the employee's work—

(1) Significantly affects the formulation or execution of management programs or policies; or

(2) Involves management or general business functions or supporting services of substantial importance to the organization serviced; or

(3) Involves substantial participation in the executive or administrative functions of a management official.

(b) *Nonmanual work test.* The employee performs office or other predominantly nonmanual work which is—

(1) Intellectual and varied in nature; or

(2) Of a specialized or technical nature that requires considerable special training, experience, and knowledge.

(c) *Discretion and independent judgment test.* The employee frequently exercises discretion and independent judgment, under only general supervision, in performing the normal day-to-day work.

(d) *80-percent test.* In addition to the primary duty test that applies to all employees, General Schedule employ-

ees in positions properly classified at GS-5 or GS-6 (or the equivalent level in other comparable white-collar pay systems) must spend 80 percent or more of the worktime in a representative workweek on administrative functions and work that is an essential part of those functions to meet the 80-percent test.

[62 FR 67247, Dec. 23, 1997; 63 FR 2304, Jan. 14, 1998]

**§ 551.207 Professional exemption criteria.**

A *professional employee* is an employee who meets all of the following criteria, or any teacher who is engaged in the imparting of knowledge or in the administration of an academic program in a school system or educational establishment.

(a) *Primary duty test.* The primary duty test is met if the employee's work consists of—

(1) Work that requires knowledge in a field of science or learning customarily and characteristically acquired through education or training that meets the requirements for a bachelor's or higher degree, with major study in or pertinent to the specialized field as distinguished from general education; or is performing work, comparable to that performed by professional employees, on the basis of specialized education or training and experience which has provided both theoretical and practical knowledge of the specialty, including knowledge of related disciplines and of new developments in the field; or

(2) Work in a recognized field of artistic endeavor that is original or creative in nature (as distinguished from work which can be produced by a person endowed with general manual or intellectual ability and training) and the result of which depends on the invention, imagination, or talent of the employee; or

(3) Work that requires theoretical and practical application of highly-specialized knowledge in computer systems analysis, programming, and software engineering or other similar work in the computer software field. The work must consist of one or more of the following: