

875—218.3(91D) Professional. “Employee employed in a bona fide... professional capacity” means any employee:

218.3(1) Whose primary duty consists of the performance of:

a. Work 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,

b. Work that 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

c. Teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in the school system or educational establishment or institution by which employed;

218.3(2) Whose work requires the consistent exercise of discretion and judgment in its performance;

218.3(3) Whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time;

218.3(4) Who does not devote more than 20 percent of the hours worked in the workweek to activities which are not an essential part of and necessarily incident to the work described in 218.3(1) to 218.3(3);

218.3(5) Who is compensated for services on a salary basis at a rate of not less than \$340 per week, exclusive of board, lodging, or other facilities, provided that this subrule shall not apply in the case of an employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and who is actually engaged in the practice thereof, nor in the case of an employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of medicine or any of its branches, nor in the case of an employee employed and engaged as a teacher as provided in 218.3(1) “c,” provided that an employee who is compensated on a salary or fee basis at a rate of not less than \$500 per week, exclusive of board, lodging, or other facilities, and whose primary duty consists of the performance either of work described in 218.3(1) “a” to 218.3(1) “c,” which includes work requiring the consistent exercise of discretion and judgment, or of work requiring invention, imagination, or talent in a recognized field of artistic endeavor, shall be deemed to meet all of the requirements of this rule.

SOURCE: 29 CFR 541.3.