

**Sec. 31-60-16. Employee in bona fide professional capacity**

(a) For the purposes of said section 31-58 (f), “employee employed in a bona fide professional capacity” means any employee (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 or (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 while employed and engaged in this activity as a teacher certified or recognized as such in the school system or educational establishment or institution by which he is employed; 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 character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and (4) who does not devote more than twenty per cent of his hours worked in the workweek to activities which are not an essential part of and necessarily incident to the work described in subdivisions (1) to (3), inclusive, of this section; and (5) who is compensated for his services on a salary or fee basis at a rate of not less than four hundred dollars per week exclusive of board, lodging or other facilities; provided this subdivision 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, or 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, or in the case of an employee employed and engaged as a teacher as provided in subdivision (1)(C) of this section, and provided an employee who is compensated on salary or fee basis at a rate of not less than four hundred seventy-five dollars per week exclusive of board, lodging or other facilities, and whose primary duty consists of the performance either of work described in subdivision (1) (A) or (C) of this section 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 section.

(b) “Salary basis” means a predetermined amount paid for each pay period on a weekly or less frequent basis, regardless of the number of days or hours worked, which amount is not subject to reduction because of variations in the quality or quantity of the work performed, and which amount has been the subject of an employer advisement as required by section 31-71f of the Connecticut General Statutes.

(1) Although the employee need not be paid for any workweek in which he performed no work, deductions may only be made in the following five (5) instances:

(A) During the initial and terminal weeks of employment, an employer may pay a proportionate part of an employee’s salary for the time actually worked;

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(B) Deductions may be made for one or more full days if the employee is absent for personal reasons other than sickness or accident;

(C) Deductions may be made for one or more full days of sickness or disability provided the deduction is made pursuant to a bona fide plan, policy or practice of making deductions from an employee's salary after sickness or disability leave has been exhausted which has been disclosed to the employee in accordance with section 31-71f of the Connecticut General Statutes;

(D) Deductions may be made for absences of less than one full day taken pursuant to the Federal Family and Medical Leave Act, 29 USC 2601 et seq., or the Connecticut Family and Medical Leave Act, section 31-51kk et seq. of the Connecticut General Statutes, as permitted by 29 CFR 825.206 or by section 31-51qq-17 of the Regulations of Connecticut State Agencies; or

(E) Deductions may be made for one or more full days if the employee is absent as a result of a disciplinary suspension for violating a safety rule of major significance. Safety rules of major significance include only those relating to the prevention of serious danger to the employer's premises, or to other employees.

(2)

(A) No deduction of any kind shall be made for any part of a workweek absence that is attributable to:

- (i) Lack of work occasioned by the operating requirements of the employer;
- (ii) Jury duty, or attendance at a judicial proceeding in the capacity of a witness; or
- (iii) Temporary military leave.

(B) An employer is permitted to offset payments an employee receives for any of the services described in this subdivision against the employee's regular salary during the week of such absence.

(3) No deduction shall be made for an absence of less than one full day from work unless:

(A) The absence is taken pursuant to the Federal Family and Medical Leave Act, 29 USC 2601 et seq., or the Connecticut Family and Medical Leave Act, section 31-51kk et seq., of the Connecticut General Statutes, as permitted by 29 CFR 825.206 or by section 31-51qq-17 of the Regulations of Connecticut State Agencies; or

(B) The absence is taken pursuant to a bona fide paid time off benefits plan that specifically authorizes the substitution or reduction from accrued benefits for the time that an employee is absent from work, provided the employee receives payment in an amount equal to his guaranteed salary.

(4) No deduction of any kind shall be made for an absence of less than one week which results from a disciplinary suspension for violating ordinary rules of employee conduct.

(c) "Fee basis" means the payment of an agreed sum for the accomplishment of a single task regardless of the time required for its completion. A fee basis payment shall be permitted only for jobs which are unique in nature rather than for a series of jobs which are repeated an indefinite number of times and for which payment on an identical basis is made over and over again. Payment on a fee basis shall amount to a rate of not less than the rate set forth in subsection (a) of this section.

(Effective June 11, 1968; Amended July 25, 2001)