

29 C.F.R. § 779.402

“Executive” and “administrative” employees defined.

The terms “executive” and “administrative” as used in section 13(a)(1) of the Act are defined and delimited in subpart A of part 541 of this chapter and explained in subpart B of that part. These regulations are applicable under the amended section 13(a)(1) in determining which employees are bona fide executive or administrative employees. The clause that is enclosed in parentheses in section 13(a)(1) and which reads “including any employee employed in the capacity of academic administrative personnel for teacher in elementary or secondary schools” was added by the 1966 amendments to the Act. This clause will not have any affect in the application of the regulations to retail or service establishments. The Act and the regulations point out the fact that an executive or administrative employee of a retail or service establishment may devote up to 40 percent of his hours worked in a workweek to activities which are not directly and closely related to the performance of executive or administrative activities and still qualify as a bona fide executive or administrative employee. However, in other types of establishments such a tolerance is limited to 20 percent, except where special provisions are made in part 541 of this chapter.

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