

**59 Professional employee**

Section 7103(a)(15) of the Statute defines a professional employee as:

(A) an employee engaged in the performance of work--

(i) requiring knowledge of an advance type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital (as distinguished from knowledge acquired by a general academic education, or from an apprenticeship, or from training in the performance of routine mental, manual, mechanical, or physical activities;

(ii) requiring the consistent exercise of discretion and judgment in its performance;

(iii) which is predominately intellectual and varied in character (as distinguished from routine mental, manual, mechanical, or physical work; and

(iv) which is of such character that the output produced or the result accomplished by such work cannot be standardized in relation to a given period of time; or

B) an employee who has completed the course of specialized intellectual instruction and study described in subparagraph (A)(i) of this paragraph and is performing related work under appropriate direction or guidance to qualify the employee as a professional employee described in subparagraph (A) of this paragraph.

***For specific guidance on this topic, see RCL 23.***

Relevant questions to determine professional status include the following:

- 1) What are the specialized educational or training requirements for this position?
  - a) The X-118 standards for the position and grade in dispute may be helpful.

- b) What did the vacancy announcement of this position state as to educational and/or training requirements?
  - c) What did the vacancy announcement of similar positions state as to educational and training requirements?
  - d) Does the person whose position is in dispute have these educational or training prerequisites?
  - e) What state licenses or memberships in professional associations does this person possess and are they needed for the position?
- 2) Describe the duties of this position and the nature of the work.
- a) The employee describes his/her duties. Are the duties routine, varied, standardized, manual, mental?
  - b) Examples of documents or reports authored by this individual in his/her employment capacity may be helpful, as would be testimony as to how such documents were created.
  - c) What is the nature of supervision given to the employee?
  - d) Describe the independent judgment or discretion that is exercised.
  - e) Is work predominately intellectual and varied in character as distinguished from routine, mental, manual, mechanical or physical? Description of the work performed, including examples of the work is vital.
  - f) Is the work of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time? Examples of work performed is essential.
  - g) Describe how the work requires knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or

hospital. Distinguish this from a general academic education or from an apprenticeship or training in the performance of routine mental, manual, or physical processes?

- h) Is the employee in question, otherwise qualified, working under the close supervision of a professional employee in preparation for becoming a professional? If so, explain the working relationship.

