
California Domestic Worker Overtime Rules¹

The following rules apply to domestic workers in California who work in private homes. The overtime a domestic worker is entitled to depends on the type of work they do and how they are hired. To determine which rules apply, first identify what category of domestic worker your employee falls under: Personal Attendant, Non-Personal Attendant or Companion. Check if your employee falls into any of the exempted worker types, then follow the rules that apply to the category that pertains to your employee.

Domestic Worker Categories:



Personal Attendants are nannies and home attendants² who spend less than 20% of their time on non-caregiving duties, such as housekeeping, gardening, laundry, cooking and cleaning for the entire family etc. Different overtime rules apply depending on whether the worker lives in or out of their employer's home and who hired them.



Non-Personal Attendant Domestic Workers are domestic workers who spend more than 20% of their time on non-caregiving duties such as housekeeping, gardening, laundry, cooking and cleaning, etc. for the entire family. Different overtime rules apply depending on whether the worker lives in or out of their employer's home and who hired them.



Companions are home attendants who spend the majority of their time providing "fellowship and protection" to seniors and people with disabilities, such as spending time on outings, playing games, reading books or other hobbies. Assistance with daily personal care activities such as bathing, dressing/grooming, light housework, transferring, and meal preparation cannot be more than 20% of the total hours worked per week. A companion hired directly by the household is exempt from federal overtime requirements.

¹ This handout was created in collaboration with the Women's Employment Law Clinic at Golden Gate University.

² Other terms for home attendant include caregiver, personal care assistant, homecare attendant, and home health aide.

Worker Exemptions:

The following workers are excluded from CA state overtime laws (which require overtime pay after 8 or 9 hours in a day) and weekly overtime (over 40 or 45 hours in week):

1. casual babysitters and babysitters under the age of 18;
2. the employer’s parent, grandparent, spouse, sibling or child;
3. personal attendants working for IHSS recipients or paid through the Department of Developmental Services; and
4. certain childcare providers working for families that receive state childcare funds.

These workers may be entitled to overtime under federal law (which provides overtime at the rate of 1.5 x Regular Rate of Pay after 40 hours in a week) as long as they are not companions or live-in domestic workers hired directly by the household. (For example, IHSS workers are entitled to federal overtime laws.)

Overtime Rules:

Non-Personal Attendant Domestic Workers



Non-Live In Employee:³

- 1.5 x the Regular Rate of Pay (see calculation instructions below):
 - After 8 hours in a day.
 - After 40 hours in a week
 - First 8 hours on the 7th consecutive day.
- 2 x the Regular Rate of Pay:
 - After 12 hours in a day.
 - After 8 hours on the 7th consecutive day

Live-In Employee:

Hired Directly by Household

- 1.5 x Regular Rate of Pay for work over 9 hours in a day.
- On the 6th and 7th consecutive days:
 - 1.5 x regular rate for the first 9 hours of work.
 - 2 x regular rate after 9 hours.

Hired Through an Agency

- 1.5 x the Regular Rate of Pay after 9 hours in a day and/or 40 hours in a week.
- On the 6th and 7th consecutive days:
 - 1.5 x Regular Rate of Pay for the first 9 hours of work.
 - 2 x Regular Rate of Pay after 9 hours.

³ A Non-Live In Employee doesn't live in the home of their employer and a Live-In Employee lives in their employer's home.



Personal Attendants

Non-Live In Employee:

- 1.5 x Regular Rate of Pay:
 - After 9 hours in a day.
 - After 40 hours in a week.

Live-In Employee:

Hired Directly by Household

- 1.5 x Regular Rate of Pay:
 - After 9 hours in a day.
 - After 45 hours in a week.

Hired Through an Agency

- 1.5 x Regular Rate of Pay:
 - After 9 hours in a day.
 - After 40 hours in a week.



Companions

Non-Live In Employee:

Hired Directly by Household

- 1.5 x Regular Rate of Pay:
 - After 9 hours in a day.
 - After 45 hours in a week.

Hired Through an Agency

- 1.5 x Regular Rate of Pay:
 - After 9 hours in a day.
 - After 40 hours in a week.

Live-In Employee:

Hired Directly by Household

- 1.5 x Regular Rate of Pay:
 - After 9 hours in a day.
 - After 45 hours in a week.

Hired Through an Agency

- 1.5 x Regular Rate of Pay:
 - After 9 hours in a day.
 - After 40 hours in a week.

Regular Rate of Pay is calculated as follows:

- If the worker is paid on an **hourly** basis, the hourly rate is the Regular Rate of Pay. (Example: if the worker is paid \$15/hour, then **\$15** is the Regular Rate of Pay.)
- If the worker is paid a **daily** rate, calculate the Regular Rate of Pay by dividing the daily rate by 8 hours (for non personal attendants) or by 9 hours (for personal attendants). (Example: if the worker is paid \$150/day and they are a personal attendant, then their Regular Rate of Pay is $\$150/9 = \mathbf{\$16.67}$.)
- If the worker is paid a **monthly** rate, calculate the Regular Rate of Pay by multiplying the monthly rate by 12, then divide by 52, then divide by the number of hours worked per week (not to exceed 40 hours for non-personal attendants or 45 hours for personal attendants). (Example: if the worker is a non-personal attendant and is paid \$2,500 per month then their Regular Rate of Pay is $\$2,500 \times 12/52/40 = \mathbf{\$14.42}$.)