

FEDERAL OVERTIME RULE: IMPACT ON COLEGES AND UNIVERSITIES

The Department of Labor (DOL) issued a [final rule](#) April 23, 2024, to update the salary level to qualify for the so-called “white collar” exemptions under the Fair Labor Standard Act’s overtime pay requirements.

Background

- Most employees who make less than the salary level are classified as “hourly” employees and are eligible to receive overtime pay. Employees who make more than the salary level and qualify under the “white collar” exemptions as “salaried” employees are not eligible to be paid overtime.
- In 2016, the Obama administration DOL issued a final rule that increased the overtime salary threshold from \$23,660 to \$47,476. That rule was [overturned](#) by a federal court in 2017. However, the Trump administration DOL issued a [new rule in 2019](#) that increased the threshold to **\$35,568** per year as of Jan. 1, 2020. This is the level it remains today.
- Currently, employees must meet three criteria to be exempt from federal overtime pay requirements under the so-called “white collar” exemptions:
 1. They are paid on a salaried basis;
 2. They earn at least \$35,568 annually; and,
 3. Their primary duties are executive, administrative, or professional.

Final Rule

- The final DOL rule raises the standard salary threshold from its current level of \$35,568 annually through a two-step increase to \$43,888 as of July 1, 2024, and then to \$58,656 as of Jan. 1, 2025 — a nearly 65 percent increase when fully implemented over seven months. The July 1 increase updates the current annual salary threshold based on the methodology used by the Trump administration in the 2019 overtime rule update. The Jan. 1 increase will be based on a new DOL methodology, setting the threshold based on the 35th percentile of weekly earnings of full-time salaried workers in the lowest-wage Census Region (the South). In addition, the threshold would automatically be updated every three years. DOL has also issued a set of [FAQs](#) with the final rule.
- The proposed rule also raises the salary level for the Highly Compensated Exemption (HCE) through a similar two-step increase to a new level of \$151,164 as of Jan. 1, 2025, from its current level of \$107,432 (a nearly 29 percent increase).
- College and university professors or adjunct instructors are not covered by the salary threshold under DOL’s current “teacher exemption” (provided they have a primary duty of teaching, tutoring, instructing or lecturing). This includes faculty members who are engaged as teachers but who also spend a considerable amount of their time in extracurricular activities, such as acting as moderators or advisors for drama, speech, debate, or journalism programs. Regardless of what they are paid, they are excluded from the regulation.

- Based on current DOL policy, the threshold also likely does not apply to student workers, including teaching assistants and research assistants. Researchers do not qualify for the exemption, unless they have significant teaching responsibilities. We will share information if DOL changes its position regarding student workers.
- Athletic coaches and assistant coaches may fall under the teacher exemption if their primary activity is teaching, which DOL has said in the past may include instructing athletes in how to perform their sport. If, however, their duties primarily include recruiting athletes or doing manual labor, they would not be considered teachers.
- However, non-faculty employees earning less than the new salary threshold amount will have to be paid on an hourly basis and will be eligible for overtime pay. Hourly records would have to be kept for these employees. The regulation could affect the status of admissions officers, registrars, residential life and student personnel staff, and IT professionals among others.

Next Steps

- The first step of the two-step increase will be implemented as of July 1, 2024.
- We strongly urge you to analyze the impact it will have on your institution and prepare to implement changes to your employees.
- We will keep you apprised of any potential litigation and what that could mean for implementation of the final rule.