



## U.S. DEPARTMENT OF LABOR UPDATES OVERTIME RULES

On April 23, 2024, the Department of Labor (DOL) issued a final rule updating the salary and compensation levels needed for workers to be exempt from overtime eligibility which would take effect on July 1, 2024. The compensation levels were last updated on January 1, 2020. Since then, salaried workers in the U.S. economy have experienced a rapid growth in nominal wages, according to DOL. The [final rule](#) includes the following major changes:

- (1) Starting July 1, 2024, using the prior methodology finalized in the 2019 regulations, the standard salary level will be set at a \$844 per week (\$43,888 annually), impacting a total of 1.8 million employees initially – this would represent a substantial increase from the current levels of \$684 per week (\$35,568 annually for a full year worker) up from \$455 per week (\$23,660 annually);
- (2) Starting January 1, 2025, using the updated methodology finalized in these final regulations, the standard salary level will use the 35th percentile of earnings of full-time salaried workers in the lowest-wage Census Region (currently the South), which will be set at \$1,128 per week (\$58,656 annually) based on current data (CY 2023);
- (3) Starting January 1, 2025, increase the total annual compensation requirement needed to exempt highly compensated employees to the annualized weekly earnings of the 85<sup>th</sup> percentile of full-time salaried workers nationally, which will be \$151,164 per year based on current earnings data – this represents a substantial increase from the current levels of \$107,432 annually; and
- (4) Starting July 1, 2024, automatically update these earnings thresholds every three years with current wage data – this represents a change from current regulations that only require periodic reviews and require additional rulemaking to implement increased levels.

The final rule makes no changes to the existing flexibility finalized in the 2019 rule that allow employers to use nondiscretionary bonuses and incentive payments (including commissions) to satisfy up to 10 percent of the standard salary level, provided these payments are made on an annual or more frequent basis.

### FLSA “White Collar” or “EAP” Exemption

Under the Fair Labor Standards Act (“FLSA”), non-exempt employees must receive a minimum wage and overtime pay for work conducted in excess of 40 hours a week. However, the FLSA also allows certain employees to be exempt (white collar exemption) from these minimum wage and overtime requirements if they work in executive, administrative, professional (“EAP”) or outside sales duties and meet all of the following requirements:

- Employee must be paid on a salary basis that is not subject to reduction based on the quality or quantity of work conducted (e.g., paid on an hourly basis).
- Employee must receive a salary at a rate not less than \$684 per week (or \$844 on July 1, 2024).

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- Employee primary duties must involve the kind of work associated with the exempt status categories allowed under law (executive, administrative, professional, outside sales) (the “duties test”).

### **Certified Athletic Trainers Will Continue to Fall Under “Learned Professional” Exemption Test**

The DOL final rule is focused on the part of the test that relates to compensation levels. **There are no changes to the exemption’s duties test, which must also be met.** Therefore, the final rule will not change the existing duties test for athletic trainers’ exemption. Under this duties test, any learned professional must satisfy the following three general requirements:

- The employee’s primary duty is the performance of work requiring advanced knowledge.
- The advanced knowledge is in a field of science or learning.
- The advanced knowledge must be acquired by a prolonged course of specialized intellectual instruction.

### **Background and Timeline on Overtime and Minimum Wage Regulations**

- March 13, 2014, President Obama signed a Presidential Memorandum directing the DOL to update the regulations defining which white-collar workers are exempt from the Fair Labor Standards Act’s (FLSA) minimum wage and overtime requirements. The FLSA establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting employees in the private sector and in Federal, State, and local governments.
- July 6, 2015, the DOL issued a Notice of Proposed Rulemaking (NPRM) – [\*Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees\*](#) (80 Fed. Reg. 38515, July 6, 2015). The DOL proposed to update and revise the regulations issued under the FLSA implementing the exemption from minimum wage and overtime pay for executive, administrative, professional, outside sales, and computer employees. To be considered exempt, employees would need to meet certain minimum tests related to their primary job duties and be paid on a salary basis at not less than a specified minimum amount. The standard salary level required for exemption would be \$455 a week (\$23,660 for a full-year worker). The DOL proposed to raise the salary threshold under which white-collar workers and highly compensated employees were exempt from FLSA overtime pay requirements to \$913 a week (\$47,476 annually).
- May 23, 2016 a [Final Rule](#) was published in the *Federal Register* and was scheduled to take effect on December 1, 2016. DOL estimated that this change would make 4.2 million currently exempt workers eligible for overtime pay, assuming employers do not change employees’ salaries and/or relevant duties in order to avoid exemption.
- On August 31, 2017, the court in *Nevada v. U.S. Dep't of Labor*, 275 F. Supp. 3d 795, 806 (E.D. Tex. 2017) granted summary judgment against the DOL, invalidating the 2016 final rule because it “makes overtime status depend predominately on a minimum salary level, thereby supplanting an analysis of an employee's job duties.” The DOL then reverted to enforcing the 2004 salary levels.
- April 20, 2018, the DOL under the Trump Administration issued its first wage and hour opinion letters and a fact sheet stating that new rulemaking was imminent to revise current regulations located at 29 CFR Part 541, governing the exemption of executive, administrative, and professional employees from FLSA minimum wage and overtime pay requirements.

- March 22, 2019, the DOL issued a proposed rule to update the salary and compensation levels needed for workers to be exempt beginning in 2020.
- September 27, 2019, the DOL finalized its proposed rule to update the salary and compensation levels.
- August 30, 2023, the DOL issued a proposed rule to update the salary and compensation levels needed for workers to be exempt and to update the earning thresholds automatically every three years.
- April 23, 2024, the DOL finalized its proposed rule, which will take effect initially on July 1, 2024, with a regular update under the 2019 methodology then on January 1, 2025 under the new methodology for determining salary and compensation levels needed to be exempt. Thresholds will update every three years based on current wage data.