



TO: COSSBA Leadership and Executive Directors

FROM: Bose Public Affairs Group

DATE: May 10, 2024

RE: Department of Labor Overtime Rule

Background

On April 23, 2024, the U.S. Department of Labor (DOL) issued a final rule updating salary requirements for those employees not exempted from Fair Labor Standards Act (FLSA) overtime pay. The FLSA requires employers to pay non-exempt employees overtime pay at 1.5 times their regular pay for those hours exceeding 40 hours that employee works each week. In addition, employers are supposed to keep time records for non-exempt employees.

Specifically, the rule increases the threshold earnings for non-exempt “white-collar” employees in a two-step approach. The current \$684/week (\$35,568/year) threshold will increase to \$844/week (\$43,888/year) on July 1, 2024 and then to \$1,128/week (\$58,656/year) on January 1, 2025. This threshold will be updated every three years starting on July 1, 2027 and be based on current market salaries.

What this means for school districts

Teachers who meet the “duties test” of teaching at least 50% of their work week, will continue to remain exempt from overtime pay under the FLSA as well as school administrators. However, certain currently exempt employees may not remain exempt if they fall under the income threshold. Potentially impacted employees are business office managers, supervisors, division heads, school bus drivers, maintenance workers, or human resources and finance staff. Under the FLSA an employee must meet the following requirements to qualify for the “white-collar” exemption:

- Be paid on a salary basis;
- Be paid at or above the threshold weekly salary (amount changed under this new rule); and
- Perform certain duties laid out in the FLSA.

An employee who performs multiple roles in their current day-to-day/weekly activities may or may not remain exempt status going forward.

Since education operates on an academic year, usually July 1 – June 30, and salaries are typically adjusted on that same calendar, districts need to quickly analyze their employee roles to determine the impact on July 1 of this year, but also be looking ahead at the impact that the January 1 increase will have, as well. While most are



suggesting this two-step phase-in will allow employers to better adjust, given the timing of the year, this is not as advantageous for school districts.

What should school districts do

1. Identify employees falling between the current \$684/week threshold and the \$844/week.
2. Identify employees that fall under the \$1,128/week threshold.
3. Evaluate those lists to determine who may or may not remain exempt under the FLSA.
4. Review your timekeeping and overtime policies and update as appropriate.
5. Clearly communicate these policies to employees and train employees switching from exempt to non-exempt on the various processes they will need to follow.
6. Determine the economic impact of these changes and how to address them.
7. Ensure knowledge and compliance of applicable state laws and their interaction with these new thresholds.

Conclusion

School districts should be scrambling to determine the impact of the new thresholds on their current workforce and not just look at the July 1 threshold, but also the January 1 threshold. In fact, one may encourage school districts to determine how to be in compliance with the January 1 threshold on July 1, due to the influence of the academic year on contracts. Districts should also update policies and procedures and ensure that anyone that must follow them as non-exempt employees are fully aware of their responsibilities.