



**College and University Professional
Association for Human Resources**

June 23, 2016

Chairman Steve Chabot
House Small Business Committee
U.S. House of Representatives
Washington, DC 20510

Ranking Member Nydia Velázquez
House Small Business Committee
U.S. House of Representatives
Washington, DC 20510

Dear Chairman Chabot and Ranking Member Velázquez:

On behalf of the College and University Professional Association for Human Resources (CUPA-HR), I thank you for holding today's hearing on the Department of Labor's recently finalized regulation amending the exemptions for executive, administrative, professional, outside sales, and computer employees (the "EAP exemptions" or "white collar exemptions"). CUPA-HR serves as the voice of human resources in higher education, representing more than 19,000 human resources professionals and other campus leaders at over 1,900 colleges and universities across the country, including 91 percent of all United States doctoral institutions, 77 percent of all master's institutions, 57 percent of all bachelor's institutions and 600 two-year and specialized institutions.

On June 30, 2015, DOL proposed increasing the overtime threshold to \$50,440 per year, a 113% increase that would occur all at once in 2016, and in all areas of the country regardless of significant regional economic differences. The Department also proposed automatic annual increases to the minimum salary threshold and requested comments on whether it should make changes to the duties test—keeping open the possibility the agency would limit the amount of time exempt employees could perform nonexempt work without issuing a separate NPRM containing specific proposed regulatory language.

While we agree that an increase to the minimum salary threshold is due and that DOL must update the salary levels and regulations from time to time to ensure the exemptions are not abused, DOL's proposal was met with widespread concern from colleges and universities across the country that submitted comments and economic analysis, wrote letters to Congress and met with the administration officials to advocate for positive changes that would lessen the negative impact of the many unintended consequences associated with the proposed rule.

DOL reduced the salary threshold in the final regulation from \$50,440 to \$47,476 and increased the time between automatic updates from 1 year to 3 years. While the final rule is an improvement over the proposal, it still amounts to a 100% increase over the current threshold that will go into effect all at once in 2016. This will be difficult for colleges and universities to absorb. In addition, automatically updating the threshold without regard to the economic circumstances facing the country is unwise.

Based on data the association has collected from members in the last month and over the last year, the increase will result in significant costs to institutions and will inevitably trigger tuition hikes and reductions in force and services. Recently collected data on a \$47,000 threshold puts the combined cost estimates of the 35 institutions at nearly \$115 million. The rule could negatively impact virtually every facet of academic life, from research to student services and athletics at community colleges, larger public universities, small liberal arts colleges, faith-based institutions and large research institutions.

Last summer, CUPA-HR conducted a survey of 819 members as part of the comments submitted by 18 higher education organizations in response to DOL's proposal. In this survey, 88 percent of respondents indicated any threshold over \$40,352 would be too high. More recently, CUPA-HR's *2016 Professionals in Higher Education Salary Survey Report* shows that a threshold of \$47,000, which is slightly below the final rule's \$47,476, would impose significant costs on the higher education system. According to the report, institutions would face an average cost of \$209,169 if they had to adjust just *one* employee for each of the 24 professional positions reporting a median salary below that level. Institutions will typically have many professionals in these slots below the threshold, particularly institutions in lower-cost areas of the country, which will be those hardest hit by the rule.

This is simply an unworkable solution. Accordingly, we urge all the members of the Committee on Education and the Workforce to cosponsor S. 2707, the *Protecting Workplace Advancement and Opportunity Act* which would require the Labor Department to conduct a detailed economic analysis before making dramatic changes to federal overtime pay requirements. This bill was introduced in response to grassroots concern among colleges and universities and other employers that the dramatic changes proposed by the Labor Department will reduce opportunity and flexibility for millions of executive, professional, and administrative employees.

Thank you for convening today's hearing and for the opportunity to submit this letter for the record.

Respectfully Submitted,



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