



# CUPA-HR Washington Update: How the DOL's Changes to Overtime Rules Will Impact Campus

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CUPA-HR Webinar

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# Presenters



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CUPA-HR Webinar

# Presented in Cooperation With



# Disclaimer

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The purpose of this webinar is to provide an informational overview of the DOL overtime final rule. Content shared during the webinar does not constitute legal advice. We encourage members to speak with their institution's legal counsel about appropriate ways to implement changes on their respective campuses.



# Agenda

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1. Overview of FLSA & Overtime Regulations
2. Previous Regulatory Updates to FLSA
3. 2023 Proposed Rulemaking
4. CUPA-HR's Advocacy Efforts
5. 2024 Final Rule
6. Overtime Reg Guidance
7. Impact of Final Rule
8. Legal Challenges to the Final Rule

# Overview of the FLSA & Overtime Regulations

# Fair Labor Standards Act (FLSA)

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- Establishes federal minimum wage and overtime pay standards
- Employer must track employees' hours and pay premium "overtime rate" of 1.5 times the employees' regular pay rate for hours worked over 40 per workweek
- FLSA contains various exemptions to overtime pay requirements, including for executive, administrative and professional employees – known as the EAP or "white collar" exemptions
- The FLSA states the Department of Labor will define and delimit by regulation the terms executive, administrative and professional employees from time to time
- The FLSA sets a federal "floor" and states and localities may impose additional wage and hour requirements
- This includes setting more stringent requirements for overtime pay exemptions

# Federal Overtime Pay Regulations

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Three part test for EAP exemption

1. Duties test
2. Salary basis test
3. Minimum salary level



# Previous Regulatory Updates to the FLSA

# 2016 – Obama Administration Final Rule

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Updates salary threshold to  
\$47,476 (\$913/week)

Creates automatic increases  
every 3 years indexed to the  
40<sup>th</sup> percentile of weekly  
earnings of full-time salaried  
workers in the lowest-wage  
Census Region

Enjoined by court and  
rescinded by Trump

# 2019 – Trump Administration Final Rule

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Updates salary  
threshold to  
\$35,568  
(\$684/week)

Does NOT  
include  
automatic  
increases

Went into effect  
January 1,  
2020

# 2023 Proposed Rule Making

# September 2023

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Proposed increase to the salary threshold to \$1,158 per week (\$60,209 annually)

Proposed automatic updates to the salary threshold every 3 years

- Tie threshold to 35<sup>th</sup> percentile of weekly earnings of full-time salaried workers in the lowest-wage Census Region

No changes to duties or salary basis test

# CUPA-HR's Advocacy Efforts

## Comments submitted in November 2023

Joined by 49 higher ed  
associations

Made four recommendations  
for DOL to consider:

- Do not increase salary  
threshold at this time
- Lower the proposed salary  
threshold
- Do not implement  
automatic updates
- Allow for 180 days to  
comply with any final rule

## OIRA Meeting

CUPA-HR's government  
relations team, CUPA-HR  
CEO and President, 4  
national board members all  
participated

Similar recommendations  
made during meeting as  
were included in comments

# 2024 Final Rule



## Overview

Two increases to the minimum salary threshold

Automatically updates salary level every 3 years based on the same methodology as January 1 level

No changes to duties or salary basis test

# Increases to Minimum Salary Threshold

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Current minimum salary threshold: \$684 per week (\$35,568 per year)

Beginning July 1, 2024: minimum salary threshold is \$844 per week (\$43,888 per year)

Beginning January 1, 2025: minimum salary threshold is \$1,128 per week (\$58,656 per year)

- Over a 60% increase from current level to new level effective January 1

# Highly Compensated Employees

- Increases the highly compensated employee (HCE) salary threshold to the 85<sup>th</sup> percentile of weekly earnings for full-time salaried workers
- Set to \$132,964 per year starting July 1, 2024
- Set to \$151,164 per year starting January 1, 2025



# Automatic Updates

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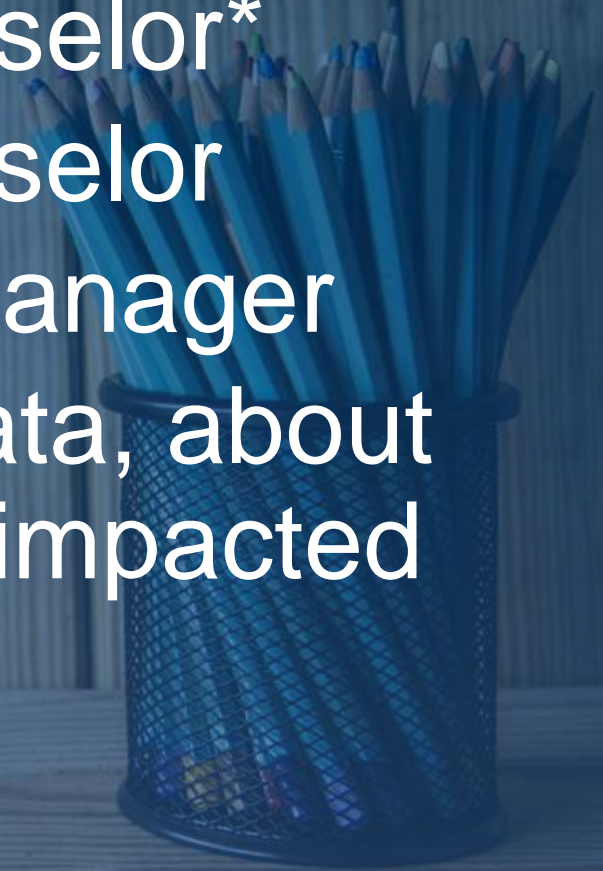
- Implements automatic updates to occur every three years
  - First automatic updates after rule takes effect will be July 1, 2027
  - Automatic updates will be issued in Federal Register at least 150 days before going into effect
  - Reserves right for DOL to temporarily delay automatic update through separate NPRM process

# Impact of Final Rules

Employees most likely to be impacted on college and university campuses beginning July 1

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- Academic Advisor – Counselor\*
- Student Admissions Counselor
- Student Residence Hall Manager
- According to CUPA-HR data, about 11,000 employees will be impacted



Employees  
most likely  
to be  
impacted on  
college and  
university  
campuses  
beginning  
January 1:

- Academic Advisor – Counselor\*
- Student Admissions Counselor
- Administrative Specialist – Coordinator
- Student Success Professional\*
- Student Financial Aid Counselor
- Student Residence Hall Manager
- Athletic Trainer - Physical Therapist
- Communications – Marketing Specialist
- Accountant
- Student Career Coordinator\*
- Event Coordinator
- **According to CUPA-HR data, over 58,000 employees will be impacted**

# How Will Institutions Respond?

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Increase

Increase salaries for positions closest to salary threshold

Reclassify

Reclassify employees from exempt to nonexempt if salary bump is too large

Restructure

Restructure jobs, departments, etc.



# Legal Challenges

# Legal Challenges to the Final Rule

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## Challenges to the rule are forthcoming from trade associations

- Lawsuits to block rule from going into effect
- Requests to extend effective date from July 1 to September 1

## July 1 level more likely than not to withstand legal challenge

- Focus on changes to \$43,888 salary level

## Challenges to January 1 level and automatic updates more likely than not to succeed

- Once July 1 changes are made, begin planning for January 1 level, but keep in mind that it may be overturned

# Have a Question?



Submit questions to our presenters  
using the Chat.



# Thank You

*Please complete your event evaluation*

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