

# United States Department of Labor

## Wage and Hour Division

### Wage and Hour Division (WHD)

#### Final Rule: Overtime

#### Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees under the Fair Labor Standards Act



On May 18, 2016, President Obama and Secretary Perez announced the publication of the Department of Labor's final rule updating the overtime regulations, which will automatically extend overtime pay protections to over 4 million workers within the first year of implementation. This long-awaited update will result in a meaningful boost to many workers' wallets, and will go a long way toward realizing President Obama's commitment to ensuring every worker is compensated fairly for their hard work.

In 2014, President Obama signed a Presidential Memorandum directing the Department to update the regulations defining which white collar workers are protected by the FLSA's minimum wage and

overtime standards. Consistent with the President's goal of ensuring workers are paid a fair day's pay for a hard day's work, the memorandum instructed the Department to look for ways to modernize and simplify the regulations while ensuring that the FLSA's intended overtime protections are fully implemented.

The Department published a Notice of Proposed Rulemaking (NPRM) in the Federal Register on July 6, 2015 ([80 FR 38515](#)) and invited interested parties to submit written comments on the proposed rule at [www.regulations.gov](http://www.regulations.gov) by September 4, 2015. The Department received over 270,000 comments in response to the NPRM from a variety of interested stakeholders. The feedback the Department received helped shape the Final Rule.

#### Key Provisions of the Final Rule

The Final Rule focuses primarily on updating the salary and compensation levels needed for Executive, Administrative and Professional workers to be exempt. Specifically, the Final Rule:

1. Sets the standard salary level at the 40th percentile of earnings of full-time salaried workers in the lowest-wage Census Region, currently the South (\$913 per week; \$47,476 annually for a full-year worker);
2. Sets the total annual compensation requirement for highly compensated employees (HCE) subject to a minimal duties test to the annual equivalent of the 90th percentile of full-time salaried workers nationally (\$134,004); and
3. Establishes a mechanism for automatically updating the salary and compensation levels every three years to maintain the levels at the above percentiles and to ensure that they continue to provide useful and effective tests for exemption.

Additionally, the Final Rule amends the salary basis test to allow employers to use nondiscretionary bonuses and incentive payments (including commissions) to satisfy up to 10 percent of the new standard salary level.

**The effective date of the final rule is December 1, 2016.** The initial increases to the standard salary level (from \$455 to \$913 per week) and HCE total annual compensation requirement (from \$100,000 to \$134,004 per year) will be effective on that date. Future automatic updates to those thresholds will occur every three years, beginning on January 1, 2020.

## Informational Webinars on the Overtime Final Rule [Watch a Recording](#)

- [Questions and Answers from the General Information Overtime Webinars](#)
- [Questions and Answers from the Overtime Webinar for the Non-Profit Sector](#)

## Additional Information

- [Final Rule](#)
- [Overtime Overview](#)
- [Questions and Answers](#)
- [Fact Sheet: Overtime Final Rule \(PDF\)](#)
- Guidance for Employers
  - [General Guidance for Private Employers](#)
  - [Small Business Guide to White Collar Exemptions](#)
- Guidance for Non-Profits
  - [Fact Sheet](#)
  - [Non-Profit Guidance](#)
- Guidance for Higher Education
  - [Fact Sheet](#)
  - [Guidance for Higher Education Employers](#)
  - [NIH statement on overtime rule and postdoctoral researchers](#)
  - [Huffington Post: "Fair Pay for Postdocs" - Dr. Francis Collins, Director, NIH and Secretary Perez](#)
- Guidance for States and Local Governments
  - [Fact Sheet](#)
- [Summary of the Economic Impact Study](#)
- [Comparison Table: Current Regulations, Proposed Rule, and Final Rule](#)
- [State-by-State Breakdowns of Workers Affected by DOL's Final Overtime Regulation](#)
- [DOL Overtime Page](#)
- [Overtime NPRM Page](#)
- [Blog Posts](#)
- [Non-Enforcement policy for providers of Medicaid-funded services for individuals with intellectual or developmental disabilities in residential homes and facilities with 15 or fewer beds](#)

