
Important Information Regarding Recent Overtime Litigation

On November 22, 2016, U.S. District Court Judge Amos Mazzant granted an emergency motion for preliminary injunction and thereby enjoined the Department of Labor from implementing and enforcing the Overtime Final Rule on December 1, 2016. The case was heard in the United States District Court, Eastern District of Texas, Sherman Division (State of Nevada ET AL v. United States Department of Labor ET AL No: 4:16-CV-00731). The rule updated the standard salary level and provided a method to keep the salary level current to better effectuate Congress' intent to exempt bona fide white collar workers from overtime protections.

On December 1, 2016, the Department of Justice on behalf of the Department of Labor filed a notice to appeal the preliminary injunction to the U.S. Circuit Court of Appeals for the Fifth Circuit.

Since 1940, the Department's regulations have generally required each of three tests to be met for the FLSA's executive, administrative, and professional (EAP) exemption to apply: (1) the employee must be paid a predetermined and fixed salary that is not subject to reduction because of variations in the quality or quantity of work performed ("salary basis test"); (2) the amount of salary paid must meet a minimum specified amount ("salary level test"); and (3) the employee's job duties must primarily involve executive, administrative, or professional duties as defined by the regulations ("duties test"). The Department has always recognized that the salary level test works in tandem with the duties tests to identify bona fide EAP employees. The Department has updated the salary level requirements seven times since 1938.

The Department strongly disagrees with the decision by the court. The Department's Overtime Final Rule is the result of a comprehensive, inclusive rule-making process, and they remain confident in the legality of all aspects of the rule.

The Overtime Rule

In 2014, President Obama directed the Secretary of Labor to update the overtime regulations to reflect the original intent of the Fair Labor Standards Act, and to simplify and modernize the rules so they're easier for workers and businesses to understand and apply.

The final rule will:

Raise the salary threshold indicating eligibility from \$455/week to \$913 (\$47,476 per year), ensuring protections to 4.2 million workers.

Automatically update the salary threshold every three years, based on wage growth over time, increasing predictability.

Strengthen overtime protections for salaried workers already entitled to overtime.

Provide greater clarity for workers and employers.

What This Means for Counties

CTSI will keep counties updated regarding this important litigation. For more information, please contact CTSI at 303-861-0507.

U.S. Department of Labor. *Important information regarding recent overtime litigation in the U.S. District Court of Eastern District of Texas*. Retrieved from <https://www.dol.gov/featured/overtime>