

Nonprofits Alert: Final Overtime Regs Published

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Since the earliest days of the current Administration, the U.S. Department of Labor has been busy preparing much-needed updates to the federal wage-and-hour regulations under the Fair Labor Standards Act (FLSA) of 1938. They are:

- tightening the worker-classification criteria (i.e., “independent contractor” vs. “employee”); and
- fixing the way-too-low salary cutoff that deprives workers of overtime eligibility.

These developments, while applicable to all U.S. employers, have been followed closely by the charitable community because of their particularized impact on our sector. See: [New Overtime Rules May Affect Nonprofits](#) (October 2, 2023); [More on the Proposed Overtime Regulations](#) (October 5, 2023); and [Independent Contractor vs. Employee: Rules Changes on Deck](#) (February 29, 2024).

On January 10, 2024, DOL [published final regulations](#) on the worker-classification issue. They went into effect on March 11, 2024. “(E)mployment law observers [anticipated swift challenges](#) to the final rule [but] but those challenges did not stop the rule from taking effect...” [Employer groups ask court to vacate DOL independent contractor rule](#) (April 19, 2024) Ryan Golden, [hrdive.com](#) [with links to pending litigation in Texas, Georgia, and Louisiana].

Final Overtime Pay Regulations

On April 23, 2024, federal officials released [the final regulations](#) on the eligibility issue. There are staggered effective dates: July 1, 2024, and January 1, 2025. As expected, the new minimum salary cut-off for employers to treat certain workers as “exempt” and not eligible for overtime compensation, has jumped steeply. (It was widely recognized that the amounts had long been way too low and out of sync with current-day compensation and market realities.)

It's now been a few weeks for the charitable community's experts to chime in on the particulars of the new regulations and to offer advice and takeaways for financial planning to accommodate the changes. The official text – [Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees](#) (April 26, 2024) 89 Federal Register (FR) 32842 – is a whopping 132 pages, PDF.

Happily, the government has provided lots of helpful – and simpler – explanations and guidance. The National Council of Nonprofits, likewise, has prepared new resource material and commentary, as has one of its member associations, the North Carolina Center for Nonprofits. You may remember NCCN's advice last September on the (as-of-then still proposed) regulations: [Don't Panic \(Yet\): What Your Nonprofit Needs to Know About the \(Latest\) New Final FLSA Overtime Rule](#). It's now been revamped and updated as of April 25th in light of the issuance of the final regulations. You are advised to panic only if you are reading it for the first time on January 2, 2024.

Wondering what to read at the beach on the long holiday weekend?

Well, here you go! You're welcome.

DOL Official Documents

The key official documents announcing and explaining the new rule

- [Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees](#) (April 26, 2024, 132 pp. PDF) 89 Federal Register (FR) 32842. ["The effective date for this final rule is July 1, 2024. Sections 541.600(a)(2) and 541.601(a)(2) are applicable beginning January 1, 2025."]
- [Press Release: Biden-Harris administration finalizes rule to increase compensation thresholds for overtime eligibility, expanding protections for millions of workers](#) (April 23, 2024) ["Effective July 1, 2024, the salary threshold will increase to the equivalent of an annual salary of \$43,888 and increase to \$58,656 on Jan. 1, 2025. The July 1 increase updates the present annual salary threshold of \$35,568 based on the methodology used by the prior administration in the 2019 overtime rule update. On Jan. 1, 2025, the rule's new methodology takes effect, resulting in the additional increase. In addition, the rule will adjust the threshold for highly compensated employees. Starting July 1, 2027, salary thresholds will update every three years, by applying up-to-date wage data to determine new salary levels"]
- [Final Rule: Restoring and Extending Overtime Protections](#), (April 23, 2024, [News Release](#), U.S. Department of Labor, Wage and Hour Division [including charts])
- [Frequently Asked Questions – Final Rule: Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees](#) U.S. Department of Labor, Wage and Hour Division
- [Small Entity Compliance Guide to the Fair Labor Standards Act's Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees](#) (April 24, 2024) U.S. Department of Labor, Wage and Hour Division

- [What the New Overtime Rule Means for Workers \(April 23, 2024\) Jessica Looman, DOL Blog](#)

Additional Resources

- [Evaluating the U.S. Department of Labor's Overtime Final Rule \(April/May 2024\) National Council of Nonprofits](#)
- [Initial Analysis: DOL Overtime Final Rule and the Impact on Nonprofits \(Updated May 20, 2024, 5 pp. PDF\) National Council of Nonprofits](#)
- [Don't Panic \(Yet\): What Your Nonprofit Needs to Know About the \(Latest\) New Final FLSA Overtime Rule \(Updated: April 25, 2024\) North Carolina Center for Nonprofits](#)
- [Exempt Salary Thresholds \(April 29, 2024\) Wagenmaker & Oberle Blog \["For nonprofits employers, new considerations exist for employees exempt from overtime pay, such as executive, administrative, and certain professional employees, who have been covered by the existing salary threshold, but may no longer fall within the escalated amounts. What should responsible nonprofit leaders do in response?"\]](#)

Conclusion

Observers expect legal challenges to the new regulations. See, for instance, [What you need to know about new overtime rule that will benefit millions](#) (April 24, 2024) Lauren Kaori Gurley, *The Washington Post*.

So far, though, the first effective date, July 1, 2024, remains in place.

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