



Headed to Overtime? 3 Tips to Tackle the Higher Salary Threshold for College Coaches and Athletics Staff

Insights

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Colleges and universities are feeling the heat after recent increases to the salary threshold for employees to be exempt from overtime pay under federal wage and hour law. The new rules may have significant implications for assistant coaches and other athletic department employees who are now earning less than the scheduled increases. As the fall athletics season kicks off in the coming weeks, here's what your athletic department needs to know about these changes and three tips for adjusting to the new rule.

Recap: How Did We Get Here?

FLSA 101: Under the Fair Labor Standards Act (FLSA), employees generally must be paid an overtime premium of 1.5 times their regular rate of pay for all hours worked beyond 40 in a workweek — unless they fall under an exemption. The most common exemptions are those for so-called “white-collar” or executive, administrative, and professional employees. To meet each exemption, the employee must satisfy the salary threshold and a “duties test.”

Big Changes: In April, the U.S. Department of Labor (DOL) announced a new rule raising the minimum salary threshold for white-collar exemptions under the FLSA. On July 1, the salary threshold increased from \$684 per week (\$35,568 annually) to \$844 per week (\$43,888 annualized). This amount will increase again on January 1 to \$1,128 (or \$58,656 a year). Employees earning less than this amount are no longer exempt from overtime pay, regardless of their job duties.

Impact: For colleges and universities, this change may have direct implications for assistant coaches and other athletic department staff who may have traditionally been classified as exempt employees under the FLSA's executive, administrative, or professional exemptions.

Back to the Books: Review Prior FLSA Guidance Applicable to Coaches

Targeted Guidance: The DOL has specific guidance on how the FLSA applies to higher education institutions. It underscores the importance of meeting both the salary basis and duties tests to classify employees as exempt. The fact sheet clarifies that certain employees, such as teachers, can be exempt regardless of their salary level. However, the scope of this exemption does not automatically extend to all athletic department staff, including assistant coaches, unless their primary duty is teaching.

Further Clarification: A DOL opinion letter further clarifies the application of the teacher exemption to assistant coaches. The letter explains that assistant coaches whose primary responsibility is instructing athletes in physical health, team concepts, and other skills related to the sport may qualify as teachers and thus be exempt from the salary threshold requirement. However, if their duties extend beyond teaching to include administrative tasks, recruiting, or other non-instructional duties, they may not qualify for this exemption and must be paid according to the FLSA's minimum wage and overtime provisions.

Impact on Assistant Coaches and Athletic Department Employees

Budgetary Challenges: The new salary threshold could make it difficult for colleges and universities to maintain exempt status for assistant coaches and other athletic department employees. Many assistant coaches, particularly at smaller institutions, may earn salaries below the new threshold, even if their duties would otherwise qualify for an exemption. As a result, you must either increase these salaries to maintain their exempt status or reclassify them as non-exempt employees eligible for overtime pay.

Potential Reclassification: For athletic department staff who perform a mix of instructional and non-instructional duties, determining their status becomes even more complex. If these employees are reclassified as non-exempt, institutions will need to track their hours carefully and compensate them for any overtime worked. This could lead to increased labor costs and administrative burdens.

Misclassification Issues: Colleges and universities must be vigilant in ensuring compliance with the FLSA (and applicable state laws) to avoid potential penalties. Misclassifying employees or failing to pay appropriate overtime can result in costly litigation, back pay, and fines. Given the heightened scrutiny on labor practices in the higher education sector, institutions cannot afford to overlook these risks.

3 Tips for Adjusting to the New Rule

1. Conduct a Comprehensive Audit of Employee Classifications: Colleges and universities should begin by reviewing the job duties and salaries of all assistant coaches and athletic department staff. This audit will help determine which employees may need to be reclassified under the new salary threshold. Institutions should pay particular attention to the primary duties of assistant coaches to assess whether they qualify for the teacher exemption.

2. Consider Adjusting Compensation Structures: For employees who fall below the new salary threshold, it may be more cost-effective to increase their salaries to maintain exempt status, rather than reclassifying them as non-exempt and incurring potential overtime costs. This approach can help preserve budget predictability and reduce administrative burdens associated with tracking overtime.

3. Implement Time-Tracking and Overtime Management Systems: For employees who must be reclassified as non-exempt, institutions should invest in robust time-tracking systems to accurately record hours worked and manage overtime effectively. Training supervisors and employees on these systems is also crucial to ensure compliance and minimize the risk of errors.

Conclusion

On the heels of major developments impacting student-athlete employment under the NLRA and the FLSA, the increase in the FLSA salary basis threshold represents another significant burden for college and university athletic departments. By understanding the new rule, leveraging existing DOL guidance, and adopting proactive strategies, institutions can navigate these changes effectively while minimizing financial and operational disruptions.

We will continue to monitor developments from the DOL's Wage and Hour Division, so make sure you are subscribed to Fisher Phillips' Insight System to get the most up-to-date information. For further information, contact your Fisher Phillips attorney, the author of this Insight, or any attorney in our Sports Industry, Higher Education, or Wage and Hour Practice Groups.

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