

FEDERAL JUDGE BLOCKS OVERTIME RULE NATIONWIDE: 5 BIGGEST QUESTIONS FOR K-12 INDEPENDENT SCHOOLS

Insights
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Schools are experiencing another round of legal whiplash when it comes to employee compensation. More than four months after the first part of the rule went into effect, and less than two months before the full effective date, a federal judge just held that the U.S. Department of Labor (DOL) exceeded its authority by raising the threshold salary for the “white collar exemption” too high (in two phases from \$35K to \$44K and then \$59K) and allowing for automatic adjustments every three years. What do you need to know about this development and what are the answers to your school’s five biggest questions?

What Happened?

In April 2024, the DOL issued a rule that raised the salary thresholds under the FLSA’s administrative, executive, and professional exemptions (which are collectively known as the “white-collar” exemptions) in two steps:

- to **\$844** a week (\$43,888 annualized) beginning July 1, 2024; and
- to **\$1,128** a week (\$58,656 annualized) beginning January 1, 2025.

The DOL also raised the threshold for the “highly compensated employee” (HCE) exemption to \$132,964 on July 1 and to \$151,164 on January 1, 2025.

In June, a federal district court temporarily halted the rule, but only as applied to the state of Texas as an employer

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[while the court heard the underlying legal challenge](#). Several business groups joined Texas and asked the court to vacate the rule completely for all employers nationwide.

On November 15, that same court struck down the DOL rule for all employers across the country. [You can read our full Insight summarizing the decision here](#).

The court found that the DOL exceeded its authority and had effectively replaced the duties test (that was required to meet the exemption) with a predominant salary level test. If this feels like déjà vu, its because something similar happened in 2016. Back then, the Obama administration's rule increasing the salary threshold for the white-collar exemptions was also struck down by a federal judge days before it was to take effect.

Frequently Asked Questions For K-12 Schools to Consider

- **If we already increased employee salaries to comply with the rule, can we reduce salaries back to the 35K threshold?** In theory, yes. But you should consider the effects on employee morale. If you have already enacted a change in pay, walking that back might feel like trying to put the toothpaste back in the tube. Additionally, if you plan on making changes, consult with legal counsel so you comply with state law on things like [advance notice of wage changes](#).
- **If we have not made changes to employee salaries, is there anything we need to do?** If you had been waiting until January 1 to implement the next round of changes and have said nothing about a potential increase, then there is nothing for you to do. However, if you have already communicated the coming increase, you will want to carefully consider next steps, including effects on morale if you walk your decision back. Alternatively, you might consider telling your affected employees that the expected changes are going to be delayed given the court's ruling and let them know that you will continue to monitor the situation and make adjustments if and when appropriate.
- **How does this affect our teachers?** There are no changes to the teacher professional exemption. Teachers who meet the duties test under the FLSA's "professional" exemption are exempt from the FLSA's overtime



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requirements – regardless of whether they meet the minimum salary threshold – and that has not changed.

- **How does this ruling affect our non-teacher roles (e.g., administrators and support staff)?** If they are classified as non-exempt from overtime and minimum wage, then there is no change for these employees. This ruling only affects employees who are exempt under the white-collar exemption. Remember that determining whether an employee is exempt requires you to perform an individualized assessment to see whether the employee performs certain duties, receives the minimum salary, and is compensated on “salary basis.” Be sure to consult with legal counsel on employee classification issues, and don’t forget that there is an additional exemption for school employees who meet the “academic administrative exemption.” These employees must be paid either as above or on a salary basis of no less than the entry level pay for faculty. To meet this exemption, their primary duty must be performing work directly related to academic instruction or training. The academic administrative exemption also remains unchanged.
- **Should we still evaluate our employees’ exempt status to determine if they are properly classified?** This ruling will bring the DOL exemptions to the forefront and may trigger closer examination of the exemption status by employees. As a result, reviewing your exempt positions to see if the duties performed are exempt is always a good idea to ensure that your employees are properly classified.

Conclusion

We are here to help. We will continue to monitor these developments, 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 authors of this Insight, or any member of [our Education team](#).