

Final Changes to Federal Overtime Regulations

Following a court challenge to a similar proposed change in 2016, the U.S. Department of Labor recently announced the publication of a final rule updating federal overtime regulations that will expand the number of employees eligible for overtime pay. The change, applicable to all public agencies and their employees, will go into effect on **January 1, 2020**.

The Fair Labor Standards Act (“FLSA”) entitles employees to pay at a rate of time-and-one-half when they work more than 40 hours in a week. However, this general rule has significant exceptions for salaried employees working in a bona fide executive, administrative, or professional capacity (sometimes referred to as the “white collar” exceptions). Employees in these categories are not entitled to additional pay beyond their regular salary regardless of the number of hours worked per week. Presently, and through December 31, 2019, to qualify for any of these exceptions, employees must be paid on a salary basis and earn at least \$455 week (\$23,660 annually). In other words, employees earning below the \$455/week threshold are entitled to overtime pay even if they are working in an executive, administrative or professional capacity.

The new rule increases this salary threshold to \$684 per week (or \$35,568 annually), thus extending overtime pay protections to a greater number of employees. No changes have been made, however, to the “duties tests” used to classify executive, administrative and professional employees. Note that the new rule will not impact the partial exemption under Section 207(k) of the FLSA for police officers and firefighters.

In the coming weeks and months, it will be useful to identify salaried employees in exempt positions currently earning less than \$684 per week and determine whether to: a) increase their salary beyond the newly-increased threshold; or b) reclassify them as non-exempt employees and begin monitoring their hours and overtime to ensure compliance with the FLSA. As always, employers have an affirmative obligation to ensure that their employees are properly classified.

Be aware that it is possible this new rule will be challenged. We will keep you informed of any additional developments.

In the meantime, if you have any questions concerning these upcoming changes or the FLSA in general, please contact any member of the firm’s Labor and Employment Practice Group at 617.556.0007. Access to this eUpdate, and many others, is found on our website under the “Resources” tab at www.k-plaw.com, or, to go directly to the eUpdate page, click [here](#).

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