

New Salary Threshold for Overtime Eligibility

June 13, 2024

Number 28

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On April 23, 2024, the United States Department of Labor, Wage and Hour Division (Department), made significant changes to its regulations under the Fair Labor Standards Act (FLSA). These changes include an increase in the salary thresholds necessary for employees to qualify as overtime exempt and the introduction of a provision to update these thresholds automatically every three years.

Under the FLSA, a three-factor test applies to the “white-collar exemption” and determines whether an employee qualifies as exempt from overtime. The exemption requires that an employee:

1. received at least a minimum specified salary (salary level test);
2. is paid on a salary basis (salary basis test); and
3. has certain primary job duties that match the specified duties defined by the FLSA regulations as exempt under the executive, administrative, or professional exemptions (job duties test).

Separately, employees can be exempt from overtime under the “highly compensated employee exemption” (HCE), which requires a minimum salary and an office-based job in which one of the duties is like an executive, administrative, or professional employee. **The function of the white collar exemption and the HCE will remain the same. However, the salary necessary to qualify for the exemptions has increased and will continue to increase as summarized below.**

Historically, to meet the salary level test of the white collar exemption, the employee must have been paid at least \$684 per week or \$35,568 per year. For the HCE exemption, the employee must have received a total annual compensation of at least \$107,432 per year. The Department’s new rule increases those amounts in stages:

- As of July 1, 2024, to meet the salary level test, an employee must earn at least \$844 per week or \$43,888 per year, and under the HCE, an employee must earn \$132,964.

- As of July 1, 2025, to meet the salary level test, an employee must earn at least \$1,128 per week or \$58,656 per year, and under the HCE, an employee must earn \$151,164.

Takeaways

The revised salary thresholds represent significant jumps in compensation and include pay ranges routinely seen in school districts and public agencies across California. Please note that there are California State laws, including in the Education Code, that impact employee overtime and exemptions and this Client News Brief only addresses the changes made under the FLSA.

It is crucial to review current salary schedules and track classifications that may not retain their exempt status based on the new rules. When deciding whether to increase salaries or change pay practices to reflect newly necessary overtime pay, please keep in mind that the changes may be negotiable under collective bargaining agreements. Please contact us if you have any questions or need help analyzing your current exemption determinations.

If you have any questions about the Department of Labor's new overtime exemption thresholds or need guidance related any labor and employment issue, please contact the authors of this Client News Brief or any attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcasts](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

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