

Basic Details of Biden DOL Overtime Regulation

On April 23, 2024, the Biden Department of Labor, Wage and Hour Division, published its final regulation changing how employees are determined to be exempt or non-exempt (i.e. eligible) for being overtime compensation.

Under the Fair Labor Standards Act employees must be paid time and a half for any hours worked beyond 40 hours in a week. This is called overtime compensation. (NOTE: California has a different requirement.)

The FLSA includes several different classifications exempting employees from having to be paid OT. Among them are the “white collar” exemptions: Executive, Administrative, and Professional. For an employee to be classified as exempt under one of these classifications, they must satisfy **ALL THREE** of the following requirements:

- They must be paid on a salary basis—meaning that they are paid the same amount regardless of how much they worked in a given week (unless on leave); **and**
- That salary must be above a specific threshold; **and**
- They must satisfy the duties specified for whichever classification under which they are described as exempt.

There is another exempt classification called Highly Compensated Employee, under which an employee must meet the following criteria:

- The employee performs primarily office work; **and**
- Meets only one of the duties associated with the EAP classifications; **and**
- Is paid a salary that meets the HCE salary threshold.

The new overtime regulation adjusts the salary thresholds for these classifications in the following ways:

- Increases salary threshold for EAP classifications (employee must be paid more than this to be exempt from OT, assuming performing duties) in two steps:
 - On July 1, 2024, salary threshold goes from current \$35,568/year (\$684/week) to \$43,888/year (\$844/week);
 - On January 1, 2025, the salary threshold jumps again to \$58,656/year, (\$1,128/week).
- The HCE threshold (used for employees that only meet one of criteria for EAP classifications):
 - Goes from current \$107,432/year (\$2066/week) to \$132,964 (\$2557/week) on July 1;
 - Then to \$151,164/year (\$2907/week) on January 1, 2025.
- Every three years, each July 1, the salary thresholds are adjusted by using current salary data with the first adjustment happening July 1, 2027.

A legal challenge to the regulation has been filed by a large coalition of employer representatives.

This [blog post gives](#) some more context and implications for the new OT regulation.