



The Department Of Labor's Final Rule About Overtime Pay For Exempt "White Collar" Employees

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Today's Briefing:

- What does the Final Rule change?
- How will the Final Rule affect the “exempt” status of EAP employees?
- What can and should an employer do to prepare for the December 1st implementation of the Final Rule?

DOL: Overtime – It's About Time

- [Click here to view the Department of Labor's video.](#)

The Department of Labor's Final Rule About Overtime Pay for Exempt White Collar Employees

- May 18, 2016 – DOL issued Final Rule about overtime pay for currently “exempt” executive, administrative, and professional employees (“EAP”).
- Final Rule will increase to \$913.00 per week the salary level for an EAP to qualify as “exempt” – 107% increase from current \$455.00 per week level.
- December 1, 2016 – Final Rule will take effect.

White Collar Exemptions

- Executive employees
- Administrative employees
- Professional employees
- DOL refers to them collectively as EAP exemptions

Tests For White Collar / EAP Exemptions

- There are 3 tests, and an employee must meet all 3 tests to qualify for the exemption.

Tests For White Collar / EAP Exemptions

Test #1

- **Salary Basis Test** – Employee must be paid a predetermined and fixed salary that is not subject to reduction because of variations in the quality or quantity of work performed. (There are a limited number of specifically authorized deductions).

Salary Basis Test

- **General Rule:** Payment of the employee's full salary for any week in which the employee performs any work.

Salary Basis Test

- The Final Rule does **not** change the salary basis test.

Test For White Collar / EAP Exemptions

Test #2

- **Salary Level Test:** The amount of salary paid must meet a minimum specified amount.
- Currently:
 - \$455.00 per week for EAP employees (\$23,660.00 per year).
 - \$100,000.00 in total annual compensation for the “highly compensated employee” (HCE) exemption.

Salary Level Test

- The Final Rule changes the salary level test effective December 1, 2016:
 - \$913.00 per week (\$47,476.00 per year) for EAP employees.
 - \$134,004.00 for HCE employees.

Tests For White Collar / EAP Exemptions

Test #3

- **Duties Test:** The employee's job duties must primarily involve, respectively, executive, administrative, or professional duties.

Duties Test

- The Final Rule does **not** change the duties test.

Summary Of Exempt Status

- **Dilbert:**

“You’re an ‘exempt’ employee. That means you’re exempt from having a life.”

The Pointy-Haired Boss

DOL's Final Rule v. Proposed Rule

- **Changes from Proposed Rule to Final Rule:**
 - Use of 40th percentile of earnings of full-time salaried employees in the lowest-wage Census Region, not on a national basis.
 - Automatic updates every 3 years, not annually.
 - Counting non-discretionary compensation up to 10% of the salary level.

DOL's Final Rule

Significant Revisions:

- Increase the salary levels for both EAP and HCE exemptions.
- Permit the counting of non-discretionary bonuses, incentive pay, and commissions toward as much as 10% of the salary level for non-HCE EAP employees.
- Automatically update those salary levels.

DOL's Final Rule

Insignificant Revisions:

- Create a special salary level for American Samoa EAP employees (\$767.00 per week) (84% of the EAP salary level).
- Increase the special salary level for the motion picture producing industry from \$695.00 per week to \$1,397.00 per week.

Why Is There A Perceived Need To Change The Current Salary Level?

- **Effect Of Inflation:**

- 1975 - \$250.00 per week.
- If \$250.00 had been adjusted for inflation, it would now be approximately \$1,080.00 per week.

Why Is There A Perceived Need To Change The Current Salary Level?

- **Effect Of Inflation:**

- 2004 - \$455.00 per week.
- If \$455.00 has been adjusted for inflation, it would now be approximately \$561.00 per week.

Why Is There A Perceived Need To Change The Current Salary Level?

- **2004 Method For Setting Salary Level Resulted In A Level That May Have Been Too Low:**
 - The 2004 increase from \$250.00 per week to \$455.00 per week set the salary level at approximately “the 20th percentile of salaried employees in the South region and in the retail industry.”

Why Is There A Perceived Need To Change The Current Salary Level?

- **To restore an appropriate ratio between pay for management positions and the median wage, which is what is paid to the typical non-supervisory employee:**
 - 1975 threshold of \$250.00: $1.57 \times$ the median wage.
 - 2015 median wage is \$16.70: $1.57 \times \$16.70 = \26.22 (\$1,048.00 per week; \$54,496.00 per year).

Final Rule's Increase In The Salary Level For EAP Employees

- Increase the salary level to 40th percentile of weekly earnings of “all full-time non-hourly workers in the lowest-wage Census Region,” which is now the South.
- Secretary of Labor Perez: 40th percentile is a “good proxy for the line that separates overtime exempt employees from overtime eligible employees.”

Final Rule's Increase In The Salary Level For EAP Employees

- Effective December 1, 2016, the 40th percentile amount will be \$913.00 per week (\$47,476.00 per year) for EAP employees.



What Will The Increase Mean?

- Any currently “exempt” EAP employee whose salary is between \$23,660.00 and \$47,476.00 will become “non-exempt” or eligible for overtime premium pay.

What Will The Increase Mean?

DOL: “White collar employees subject to the salary level test earning less than \$913 per week will **not** qualify for the EAP exemption, and therefore **will be eligible for overtime, irrespective of their job duties and responsibilities.**”
(emphasis added).

What Will The Increase Mean?

Ross Eisenbrey, Economic Policy Institute:

- “No matter what your boss calls you – store manager, shift supervisor, assistant to the regional manager – if your salary is below the threshold, you have to be paid for your extra hours.”

Counting Non-Discretionary Bonuses, Incentives, And Commissions Toward As Much As 10% Of The Salary Level

- Traditionally, only actual salary payments, but not bonus payments, have counted toward the salary level.
- Employers view non-discretionary bonuses and incentive payments as an important form of compensation that might be curtailed if the DOL increased the salary level, and employers had to shift compensation from non-discretionary forms of compensation to salary.

Counting Non-Discretionary Bonuses, Incentives, And Commissions Toward As Much As 10% Of The Salary Level

- Non-discretionary bonuses and incentive payments, including commissions, may count as up to 10% of the salary level (10% = \$4,747.60).
- To qualify, these payments must be paid at least quarterly.
- At the end of each quarter, a “catch-up” payment may be made within one pay period after the end of the quarter. The “catch-up” payment will count toward the prior quarter’s salary amount, not the salary amount in the quarter in which it was paid.

Counting Non-Discretionary Bonuses, Incentives, And Commissions Toward As Much As 10% Of The Salary Level

DOL Summary Of Catch-Up Payment:

- In “each pay period an employer pays” the EAP employee “on a salary basis at least 90%” of the salary level (90% of \$913.00 per work = \$821.70).
- If “at the end of the quarter the sum of the salary paid plus the non-discretionary bonuses and incentive payments (including commissions) paid does not equal” the salary level “for 13 weeks” ($13 \times \$913.00 = \$11,869.00$), the employer “has one pay period to make up for the shortfall” (up to 10% of the salary level).

Counting Non-Discretionary Bonuses, Incentives, And Commissions Toward As Much As 10% Of The Salary Level

- Discretionary bonuses **cannot** be counted toward the salary level at all.

What Kinds Of Employers Will Be Affected More By The Final Rule?

- Any employer that employs “exempt” EAP employees who **now** are paid a salary of between \$455.00 and \$913.00 per week.
- **Greater impact** – Employers with a higher number of entry to mid-level, exempt employees (for example, retail and restaurant industries).
- **Lesser impact** – Employers who employ higher number of non-exempt, hourly employees (for example, manufacturing industries).

Projected Impact Of Increase In EAP Salary Level

DOL Estimate:

- 4.2 M employees (currently EAP-exempt workers who earn between \$455.00 per week and \$913.00 per week) will cease to be “exempt” and will become “overtime-protected” or “non-exempt” **without “intervening action by their employers.”** (emphasis added).

What Kinds of Employees Will Be Affected By The Final Rule?

- DOL estimates:
 - 56% will be women.
 - 61% will be age 35 or older.
 - 82% will have at least some college.
 - 53% will have a college degree.
 - 56% will be Hispanic or African-American.
 - 16% will be a parent of a minor child.

Part-time EAP Employees

- A part-time EAP employee must be paid at least the minimum salary (\$913 per week effective December 1, 2016) to be an “exempt” employee.
- An EAP employee earning less than the minimum salary does not qualify for exempt status.

Part-time EAP Employees

- The FLSA does not permit the minimum salary to be prorated for a part-time EAP employee to reflect the employee's reduced hours: "there is no special salary level for EAP employees working less than full-time."
- DOL: An employer can pay an EAP employee working part-time or sharing a job "a salary of less than the required EAP salary threshold" if the salary is at least the minimum wage and the employee does not work more than 40 hours a week.

Potential Employer Reactions To Increase In The Salary Level For EAP Employees

- **DOL's projected potential employer "intervening actions"/reactions:**
 - Increase an employee's salary above the increased salary level threshold.
 - Reclassify an employee to non-exempt and pay overtime premium pay.
 - Reduce an employee's overtime hours and possibly transfer some of those hours to other employees.
 - Reduce an employee's pay rate (to account for overtime premium pay).
 - Some combination of the above.

Increase In The Salary Level For HCE Employees

- What is the HCE exemption for EAP employees?
- HCE exemption was created in 2004.

What Is The HCE Exemption?

- Employee customarily and regularly performs any one or more of the exempt duties or responsibilities of an EAP employee and is not engaged in manual work.
- Employee earns at least \$100,000.00 in total annual compensation.

What Is The HCE Exemption?

- Employee must receive at least \$455.00 per week on a salary or fee basis, but the remainder of the total annual compensation may include commissions, nondiscretionary bonuses, and other nondiscretionary compensation.
- Employer may make a final, catch-up payment during the final pay period or within one month after the end of the 52-week period to bring an employee's compensation up to the required level.

Increase In The Salary Level For HCE Employees

- DOL rationale for the \$100,000 threshold in 2004: “virtually every salaried ‘white collar’ employee with a total annual compensation of \$100,000 per year would satisfy any duties test.”
- DOL position: “an HCE test for exemption is an appropriate means of testing whether highly compensated employees qualify as bona fide executive, administrative, or professional employees.”

Increase In The Salary Level For HCE Employees

- DOL rationale for increasing the HCE salary level threshold: to ensure that the threshold “continues to allow for the exemption of only bona fide employees.”

Increase In The Salary Level For HCE Employees

- Increase would be from \$100,000.00 to \$134,004.00 in total annual compensation.
- Increase the HCE salary level threshold to the 90th percentile of all full-time salaried workers nationally.

Increase In The Salary Level For HCE Employees

- **Projected impact of increase in HCE threshold:**
 - **Only 28,500** employees will become “overtime-protected” or “non-exempt.”

Automatic Updating Of The EAP And HCE Salary Levels

- DOL position: An “automatic updating mechanism is the best means of ensuring that the salary level test continues to provide an effective means of distinguishing between” overtime-eligible/non-exempt and exempt EAP employees.
- DOL position: “Automatically updating the salary level using a fixed percentile of earnings will best ensure that the salary level test effectively differentiates between” overtime-eligible/non-exempt and exempt EAP employees.

Automatic Updating Of The EAP And HCE Salary Levels

- Automatic updating of the salary level for EAP employees to maintain it at the 40th percentile of weekly earnings of full-time salaried workers in the lowest-wage Census Region (90th percentile on national basis for HCE employees).
- Automatic updating will occur every 3 years effective on January 1st.
- The first automatic update will take effect on January 1, 2020.
- The DOL will announce the updated salary levels at least 150 days before their effective date.

What Should Employers Do In Preparation For The DOL's Final Rule?

- Review currently exempt EAP positions.
- Identify which currently exempt EAP positions will be affected by the Final Rule's increased salary level.



What Should Employers Do In Preparation For The DOL's Final Rule?

- Identify whether any currently exempt positions are misclassified as “exempt” based on the duties test and reclassify them as “non-exempt.”
- An internally-prepared report should be designated as “prepared at the direction of legal counsel” to preserve its confidentiality.

What Should Employers Do In Preparation For The DOL's Final Rule?

- For salaried, exempt EAP employees who earn between \$23,660.00 and \$47,476.00, track how many hours, including over 40 in a week, are being worked per week.
- For salaried, exempt EAP employees who earn between \$23,660.00 and \$47,476.00, identify how many may be affected because they work overtime.



What Should Employers Do In Preparation For The DOL's Final Rule?

- Identify currently exempt EAP positions, especially those who earn between \$23,660.00 and \$47,476.00, that could be reclassified as non-exempt because of how many hours those employees work.



What Should Employers Do In Preparation For The DOL's Final Rule?

- **Identify potential counter-measures to the increase in the salary level :**
 - Convert salaried, exempt EAP employees to hourly, non-exempt status and pay 1-1/2 time overtime pay.
 - Reduce salary levels to cover overtime pay.
 - Reduce or eliminate overtime hours.
 - For employees whose salary is close to \$47,476.00, consider increasing salary to above \$47,476.00.



What Should Employers Do In Preparation For The DOL's Final Rule?

- **Identify potential counter-measures to the increase in the salary level :**
 - Reduce discretionary compensation, such as discretionary bonuses.
 - Reduce other forms of compensation, such as fringe benefits.

What Should Employers Do In Preparation For The DOL's Final Rule?

- **Identify potential counter-measures to the increase in the salary level :**
 - Hire part-time employees to reduce hours worked by others.
 - Transfer job duties to other employees.

What Should Employers Do In Preparation For The DOL's Final Rule?

- **Compare the expenses associated with potential counter-measures:**
 - Expense of increasing salaries above \$47,476.00 **versus** expense of paying 1-1/2 time overtime pay.

What Should Employers Do In Preparation For The DOL's Final Rule?

- **Assess employee workload and productivity:**
 - Improve management or restructure job duties to maximize the employee's ability to complete the duties in a 40-hour work week, if feasible.
 - Review staffing levels and scheduling to maximize efficiency and minimize unnecessary hours.

What Should Employers Do In Preparation For The DOL's Final Rule?

- **Convert currently “exempt” EAP employees to “non-exempt” employees:**
 - Absent a reduction in base pay, employee will still receive straight-time and time and one-half overtime pay for hours worked in excess of 40 in a workweek.

What Should Employers Do In Preparation For The DOL's Final Rule?

- **Convert currently “exempt” EAP employees to “non-exempt” employees:**
 - Employer will need to monitor after-hours work and travel time, which will become compensable for non-exempt employees.
 - Employer will need to institute timekeeping procedures for newly non-exempt employees.

What Should Employers Do In Preparation For The DOL's Final Rule?

- **Convert currently “exempt” EAP employees to “non-exempt” employees:**
 - Will loss of salaried “exempt” status cause an employee relations problem?

What Should Employers Do In Preparation For The DOL's Final Rule?

- **Reduce salary levels to cover overtime pay:**
 - DOL: “many employers will adjust base wages downward to some degree so that even after paying the overtime premium, overall pay and hours of work for many employees will be relatively minimally impacted.”
 - Employers are likely to use this counter-measure to some extent.
 - How much of an employee relations problem will pay reductions cause?

What Should Employers Do In Preparation For The DOL's Final Rule?

- **Reduce work hours or reduce or eliminate overtime hours:**
 - DOL: “**Depending on how hours are adjusted, a specific worker may earn less pay.**” (emphasis added).
 - DOL: “Due to the increase in marginal cost for overtime hours for newly overtime-eligible workers, employers will demand fewer hours from some of the workers affected by this rule...an additional potential benefit...is the increase in time off for some affected EAP workers.”

What Should Employers Do In Preparation For The DOL's Final Rule?

- **Reduce work hours or reduce or eliminate overtime hours:**
 - But “not all workers would prefer to work fewer hours and thus some of these workers might experience an adverse impact.”
 - For affected employees “whose work hours and pay are both reduced, they may seek second jobs in order to restore pay to its original level.”

What Should Employers Do In Preparation For The DOL's Final Rule?

- **Reduce work hours or reduce or eliminate overtime hours:**
 - Will it be feasible to reduce hours for some positions?
 - Will it be feasible to transfer hours to other workers?
 - Will it be feasible to hire part-time employees to reduce hours worked by affected EAP employees?

What Should Employers Do In Preparation For The DOL's Final Rule?

- **Increase salary above the new salary level:**
 - Will it create internal pay equity issues with other employees?
 - Will it make the affected employee less profitable or unprofitable and result in job loss?

What Should Employers Do In Preparation For The DOL's Final Rule?

- **Reduce discretionary compensation or other forms of compensation:**
 - Will reduction in bonuses cause lower motivation and dedication and negatively affect the employer?
 - How much will a reduction in non-salary compensation cause an employee relations problem?

What Should Employers Do In Preparation For The DOL's Final Rule?

- **Other options:**
 - Pay straight-time salary for more than a 40 hour schedule and pay overtime for the hours in excess of 40 (1/2 time for hours included in the salary and 1- 1/2 time for hours beyond those included in the salary.

What Should Employers Do In Preparation For The DOL's Final Rule?

- **Other options:**
 - Pay fixed salary for a workweek of more than 40 hours, in which the salary includes overtime compensation under certain conditions (but salary must be adjusted if hours of work change because employee must be paid based on hours actually worked during the workweek).

What Should Employers Do In Preparation For The DOL's Final Rule?

- **Other options:**

- Pay a fixed salary that covers a fluctuating number of hours at straight-time, subject to certain conditions, including a clear mutual understanding between the employer and the employee.

Questions?

Thank you!

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Alternatives for Compliance

1. Increase salaries to new threshold
2. Reclassify as non-exempt and pay overtime above a salary
3. Reduce hours to avoid overtime work
4. Reclassify employees but set wages to a rate that the total amount paid will be the same.
5. Reduce benefits or other compensation to off-set increases to the salary level

Alternatives for Compliance

6. Hire more full-time, part-time or seasonal employees
7. Consider job restructuring
8. No changes (not necessary if work 40 hours or less per week)
9. Adopt a “fluctuating workweek”
10. Adopt a “Belo plan” for employees with irregular hours

Option 1: Raise Salaries

- Operations Manager is paid a salary of \$45,000 per year.
- Job duties qualify for administrative exemption.
- Job regularly requires overtime
- Raise the manger's salary to at or above \$47,476 per year to maintain exemption.

Option 2: Pay Overtime Above a Salary

- Manager earns \$41,600 per year (\$800 per week) for a 40 hour workweek.
- If works 45 hour in a workweek:

Hourly Rate: $\$800 / 40 \text{ hours} = \20.00

Weekly Salary $= \$800.00$

5 hours x $\$20.00/\text{hr} \times 1.5 = \150.00

Total Compensation Due $= \$950.00$

Option 2: Pay Straight time & overtime in addition to salary

- Manager earns \$44,200 per year (\$850 per week) for a 50 hour workweek.
- If works 50 hour in a workweek:

Hourly Rate: $\$850 / 50 \text{ hours}$ = \$ 17.00

Weekly Salary = \$ 850.00

Additional Half-Time OT (10 hrs x \$8.50)=\$85.00

Total Compensation Due = \$ 935.00

Option 2: Agree to Fixed Salary for Workweek of more than 40 hours which Includes OT Compensation

- Construction Manager earns \$39,520 per year (\$760 per week) for a 45 hour workweek including overtime.

Straight time: \$16 regular rate x 40 hrs = \$640

Overtime: \$24 overtime rate x 5 hours = \$120

If schedule changes, salary needs to be adjusted to reflect actual hours worked

Option 3: Reduce hours to avoid overtime work

- Redistribute workloads
- Adjust employee schedules (e.g. start later if need to work until store close)
- Increase hours of others

Option 3: Reduce hours to avoid overtime work

- But what if an employee works more than 40 hours per week even if not authorized?

Option 4: Adjust Wages

- Adjust earnings between regular and overtime so that the total amount paid largely remains the same.
- Employers cannot reduce hourly wage below minimum wage.
- Cannot adjust each workweek in order to manipulate the regular rate.

Adjust Wages Example

Supervisor at private gym works 45 hrs per wk
qualifies for executive exemption earns
\$37,000/yr (\$711.54 per week)

If now pay hourly rate of \$15.00...

40 hours x \$15/hr = \$600.00

5 hours x \$15/hr x 1.5 = \$112.50

Total Compensation Due = \$712.50

Adjust Wages Example

Supervisor at private gym works 45 hrs per wk
qualifies for executive exemption earns
\$37,000/yr (\$711.54 per week)

Alternatively, pay salary of \$600/wk...

Weekly Salary = \$600.00

5 hours x \$15/hr x 1.5 = \$112.50

Total Compensation Due = \$712.50

Option 5: Reduce benefits or other compensation to off-set increases

- Reduce fringe benefits
- Decrease amount of raises for other employees to offset
- No longer eligible for profit-sharing
- National Retail Foundation predicts 5% of workers will see benefits reduced in some way, either with loss of paid vacation days, loss of bonus pay or less generous health coverage

Option 6:

Hire other employees

Hire more employees:

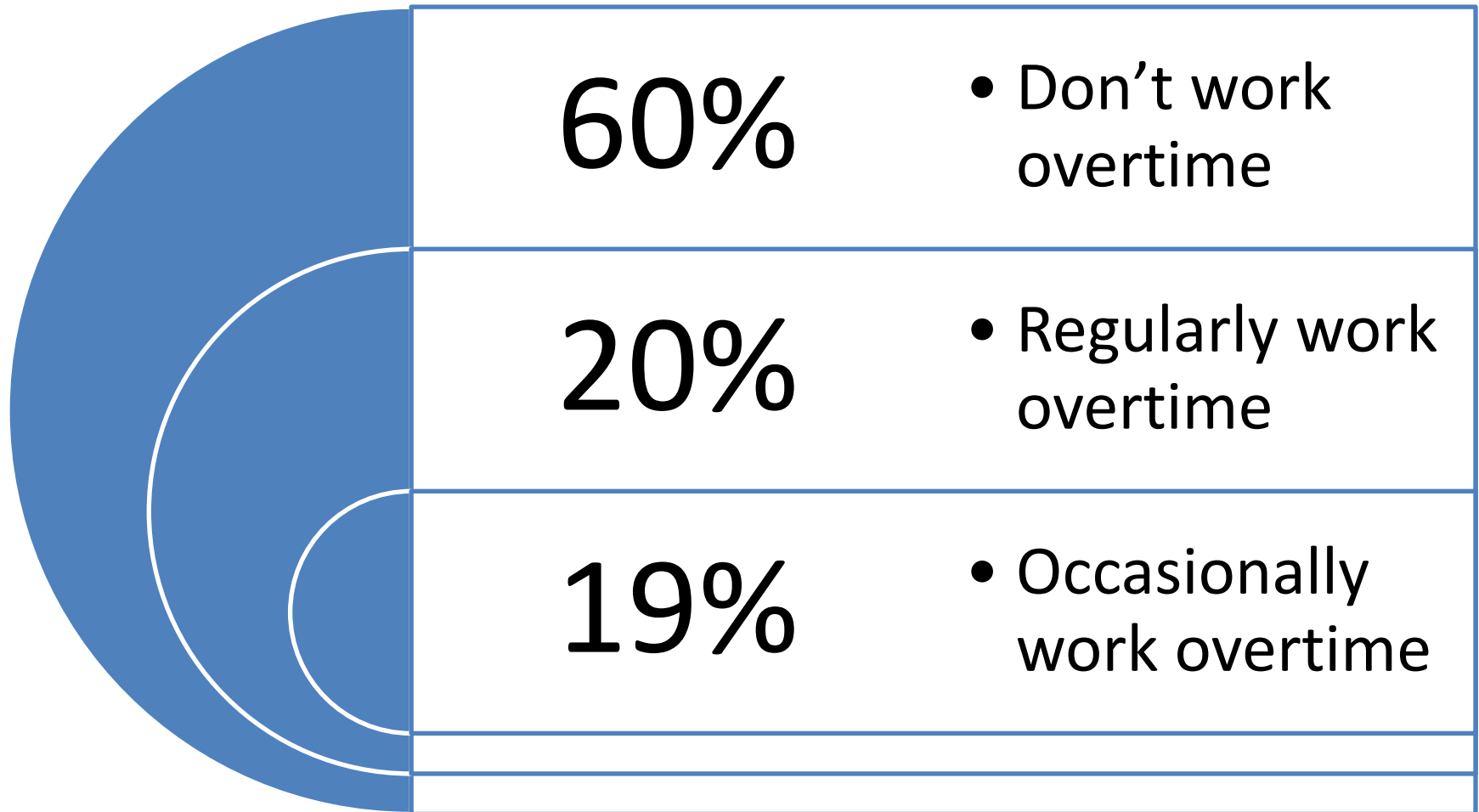
- full-time,
- part-time; or
- seasonal employees

Option 7: Consider job restructuring



Option 8: No Changes

Most affected employees do not work OT



Option 9: Fluctuating Workweek

- An arrangement between an employer and employee whose hours fluctuate from week to week that the employee's stated salary compensates the employee on a straight-time basis for all hours worked in the week. 29 CFR 778.114
- As a result, the employee need to be paid only an "additional half time" for hours worked in excess of 40.

Requirements for Fluctuating Workweek

1. There must be a guaranteed weekly salary that is paid if the employee performs any work during the week.
2. The hours of the employee must fluctuate from workweek to workweek.
3. The regular hourly rate of pay that is used to base the half time overtime rate must be at least the minimum wage.

Fluctuating Workweek Example

Weekly Salary of \$400 for an employee who is working 50 hours

Standard OT Calculation:

Hourly Rate: $\$400/40 \text{ hours} = \10.00

40 hours x \$10.00 per hr = \$400.00

10 hours x \$10.00/hr x 1.5 = \$150.00

Total Compensation Due = \$550.00 (\$150 extra)

Fluctuating Workweek:

Hourly Rate: $\$400/50 \text{ hours} = \8.00

40 hours x \$8.00 per hr = \$320.00

10 hours x \$8.00/hr x 1.5 = \$120.00

Total Compensation Due = \$440.00 (\$40 extra)

Option 10: “Belo plan”

- Written agreement by which the employee is paid a set regular rate above the minimum wage that includes expected overtime, up to a maximum number of hour worked (not exceeding 60 per week, and above which the employee must be paid additional compensation).
- A Belo plan is an option if the employee's duties necessitate irregular work hours and the total wages per pay period would vary widely week to week if computed on an hourly basis.

Belo Plan Requirements

1. Employees duties must necessitate irregular or variable hours each week;
2. Must be an individual agreement;
3. Agreement must state employees will receive at least 1.5 times regular rate for hours worked in excess of statutory minimum;
4. Agreement must contain weekly guarantee of pay;
5. Guarantee of pay must be for no more than 60 hours during the workweek;
6. Guaranteed wage must be weekly, not semi-monthly or monthly.

Belo Plan Example

Employee compensated under a valid Belo plan guaranteeing \$600 per week as total compensation for all work performed up to and including 60 hours and specifying the regular rate of pay as \$8.50.

- If the employee works 60 hours in one workweek, he receives \$600.
- If the employee works 35 hour, he still receives \$600.
- Only when he works more than 60 hours, will anything in addition to the weekly guaranteed will be paid.

Compensatory Time is NOT an Option

- Private employers cannot satisfy their overtime obligations by providing comp time.
- The use of comp time is limited by the FLSA to a public agency that is a state, a political subdivision of a state, or an interstate governmental agency, under certain circumstances.

Unintended Consequences...

Other issues that come into play:

- Travel time
- Record keeping
- Working remotely
- Employee Morale

Impact on Higher Education

- General Concerns:
 - Increase in salary level is too high for colleges and universities to sustain
 - Creates an uncertain job market for employees in higher education
 - Reclassification of employees who have long been exempt from overtime

Impact on Higher Education

- **Professional:**

- Learned professionals: postdoctoral fellows, certified athletic trainers, librarians, psychologists, etc.
- Creative professionals: coaches who *primarily* recruit, adjunct instructors if their primary duty is *not* teaching, tutoring, instructing or lecturing

- **Administrative:**

- Admissions counselors or student financial aid officers

- **Executive:**

- Management positions

Compliance Alternatives Specific to Higher Education

- **Administrative Personnel:** academic administrative personnel can either be paid new salary level OR paid on a salary basis at least equal to the entrance salary for teachers in the same educational establishment
- **Compensatory Time at Public Universities:** a “public agency” can use “comp time” instead of overtime for no more than 240 hours. Comp time must be credited at the same rate as cash overtime
- **Postdoctoral Fellows:** average salary is \$45,000, which makes them good candidates for salary increase

What's Next?

- DOL Administrator David Weil's immediate focus in his final eight months will be on compliance.
- Focusing on more impacted industries:
 - Leisure
 - Hospitality
 - Retail
 - Education
 - Health Services

1,000 Investigators are ready, are you?

- Emphasize agency-initiated investigations
- Prioritizing complaints based on substance and potential impact
- Targeting investigations to benefit employees who don't feel they have a voice in the workplace.
- Requested 300 more investigators for 2017

Communicating the Message

- It is necessary to anticipate the implications (good and bad) of the change for your organization and the affected employees.
- Your organization will need to articulate the reason for the change in clear and simple terms. To do this, you should develop talking points, answers to anticipated questions, and a process for communicating the changes.
- Exempt/non-exempt law is a complex subject, and it is quite easy to inadvertently misstate something or make a statement that actually conveys a different meaning than intended.

Thank you!

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