

Final Regulations (released 5/18/16)

	CURRENT (Since 2004)	PROPOSED	FINAL
Minimum Salary Threshold	\$455/week or \$23,660/year	\$970/week or \$50,440/year ¹	\$913/week or \$47,476/year ²
Job Duties Test	For exempt status, the employee's primary duty must be administrative, executive, professional, or related to outside sales	No changes released as of July. However, discussion around potential change to limit amount of time exempt employees could perform non-exempt work	No changes to the standard job duties test
Highly Compensated Workers (HCW) Test	Exempt status at \$100,000/year. Must partake in office or non-manual work and perform at least one administrative or professional duty	Exempt status set at \$122,148 (90 th percentile of weekly earnings). No changes proposed in duties required	Exempt status set at \$134,004 ³

¹ Proposed threshold for 2016 set at 40th percentile of earnings for all full-time salaried workers.

² Threshold for 2016 based on the 40th percentile of weekly earnings for full-time salaried workers in the region in which the salary level is lowest (currently, the South).

³ Threshold for 2016 set at 90th percentile of full-time salaried workers nationally.

Final Regulations *continued*

Salary Threshold Increase

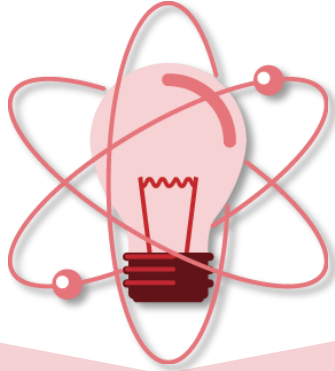
- The salary threshold will be increased automatically every three years, starting on January 1, 2020:
 - The Department will publish the information in the Federal Register 150 days in advance of the increase
 - It is expected that the minimum salary threshold will be \$51,168 on January 1, 2020
 - The Highly Compensated Workers (HCW) threshold is estimated to be \$147,524
 - Up to 10% of the salary level test can be met with non-discretionary bonuses, incentive pay, or commissions. However, these payments must be made on a quarterly or more frequent basis and the employer is “permitted” to make a “catch-up” payment at the end of the quarter

Implementation

- The final regulations are effective December 1, 2016, giving organizations and institutions significantly more time to prepare and comply than the proposed implementation timeline of 60 days

Changes Specific to Higher Education

Research



- Graduate and undergraduate students engaged in research under faculty member supervision have an educational relationship and are not entitled to overtime
- Postdoctoral researchers who engage only in research and do not teach are generally subject to the overtime requirements and are not exempt
- Some postdoctoral researchers that have a primary duty of teaching may meet the teaching exemption
- Graduate students whose primary duty is teaching or serving as a teaching assistant fall under the teaching exemption

Select Administrative Academic Positions



- Teachers are exempt if their primary duty is teaching, tutoring, instructing, or lecturing
- Certain academic administrative personnel that help run higher education institutions (counselors, departments heads, academic advisors) that interact with students outside of the classroom are exempt if they are paid at least as much as the entrance salary for teachers at their institutions

Changes Specific to Higher Education *continued*

Athletics



- Athletic coaches and assistant coaches are exempt if the majority of duties involve teaching (including instructing athletes on how to perform their sport, but excluding recruiting)
- Athletic trainers may be considered exempt if they meet the salary threshold and they satisfy the administrative exemption or the learned professional exemption

Compensatory Time



- Public higher education institutions can use compensatory time to cover overtime costs
- Any compensatory time arrangement must be established pursuant to the applicable provisions of a collective bargaining agreement, memorandum of understanding, agreement between the public agency and protected employee, or agreement between an employer and employee