



November 7, 2023

Amy DeBisschop
Division of Regulations, Legislation, and Interpretation
Wage and Hour Division
U.S. Department of Labor
Room S-3502
200 Constitution Avenue NW
Washington, DC 20210

Submitted via regulations.gov

Re: <https://www.regulations.gov/document/WHD-2023-0001-0001>, Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees

Dear Ms. DeBisschop:

The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 240 national organizations to promote and protect the civil and human rights of all persons in the United States, submits this comment in strong support of the Department of Labor’s proposal to update the salary threshold under which workers are covered by overtime protections. This update will go a long way towards correctly restoring the value of one of the most precious resources workers have — their time.

The Leadership Conference is the nation’s oldest, largest, and most diverse civil and human rights coalition and provides a powerful unified voice for the many constituencies we represent. As an organization dedicated to advancing civil and human rights, we are supportive of the department exercising its authority to update the overtime regulations and to protect workers’ rights to overtime. This is an important step forward in updating our nation’s labor practices and will ensure a fairer overtime wage for more workers, including people of color, low-income people, women, and other communities our coalition represents. Our coalition understands that efforts to empower these workers will in turn lead to a more open and just society — an America as good as its ideals.

Overtime pay protections are included in the Fair Labor Standards Act (FLSA), along with the basic right to the minimum wage, to ensure that most workers who put in more than 40 hours a week get paid 1.5 times their regular pay for the extra hours they work. The executive, administrative, or professional (EAP) exemptions, or “white collar” exemptions, allow employers to exempt some salaried workers from the right to overtime pay if they earn over a certain amount on a weekly basis and if they perform certain job duties as defined in the regulations. The idea is that workers who make above that threshold — *and* who have legitimately EAP responsibilities as a key part of their job duties — are better able to feel empowered enough in their workplace to ensure they are not overworked and underpaid.



The overtime threshold, along with the duties test, is intended to set a guardrail so that employers do not incorrectly classify lower-paid salaried employees as overtime-exempt. If employers classify a worker as exempt, they can be required to work long hours without the benefit of additional pay or without actually engaging in the job responsibilities required for exempt status.

However, the salary threshold in the current regulations is so low — just \$35,568 a year for a full-time, full-year employee — that it fails to provide a true incentive for employers to balance the additional hours they ask of their workers with the costs of either overtime pay or of raising salaries to the new salary threshold. That incentive is inseparable from a fundamental principle embodied in the FLSA — that workers should receive extra pay for extra work or the employer should hire an additional worker to do the work, spreading employment.

In 1975, the relevant salary threshold was set at a level that meant that 63 percent of full-time salaried workers were covered by overtime. By 2023, that share has dropped to just 9.0 percent. Under the new rule proposed by the department, that share would increase to 28.2 percent. The threshold proposed by DOL is well within historical precedent and could have reasonably been significantly higher and still within historical precedent. We also strongly support the department’s proposal to automatically update the threshold every three years based on the wages workers are actually earning in the economy. We would, in fact, prefer that the threshold were updated annually. Whatever the interval, however, automatic updating will help ensure that the salary threshold does not again get so incredibly out of sync with the intent of the threshold, and it will provide predictability for workers and employers alike.

We enthusiastically support the department’s proposal to update the overtime regulations and to protect workers’ rights to overtime. These updates will ensure a fairer overtime wage for more workers, and especially workers who are people of color, low-income people, women, and other communities our coalition represents. These groups have long borne the historic and ongoing burden of systemic discrimination and are among those who would benefit the most from the proposed increase to the salary threshold. Updates to the overtime regulations will make much-needed progress toward ensuring that all workers are treated with dignity and are able to enjoy basic protections in the workplace. These updates are critical to supporting the economic security of working people, addressing historic inequities, and building an inclusive economy that works for all.

Thank you for the opportunity to submit comments on the proposal and for taking the time to consider our views, especially regarding how these proposed changes will impact the economic security of the communities our coalition represents. Please do not hesitate to reach out to Peggy Ramin, policy counsel for health and anti-poverty, at ramin@civilrights.org with any questions.

Sincerely,

The Leadership Conference on Civil and Human Rights