

**TO: All Pastors, Principals and Business Managers**

**FROM: Joe Loeber, Executive Director Human Resources**

**SUBJECT: Department Of Labor Issues Final Overtime Regs**

**DATE: October 4, 2019**

Good Morning,

This is to notify you that the U.S. Department of Labor announced last week that revised final overtime rules have been issued. They will become effective January 1, 2020.

Changes include raising the "standard salary level" from the currently enforced level of $455 per week ($23,660 annual) to $684 per week ($35,568 per year).

You may read the full press release at <https://www.dol.gov/newsroom/releases/whd/whd20190924>

As background, the Department of Labor has decided to move forward with a revised version of the changes that were halted in 2016. For those of you who were around in 2016 you may remember that President Obama tried to implement changes to the Fair Labor Standards Act (FLSA) that would raise the minimum salary requirement for exempt status from $23,660 annual salary to $47,476 annual salary. i.e. anyone making less than that would have to be paid overtime if they worked more than 40 hours per week regardless of their classification or job duties.

That measure was blocked at the last minute. We knew this was probably going to be coming back in some form, and is now going to be effective 1/1/2020 with the new minimum shown above.

**Prior to December please consider the following options for all employees currently in salaried exempt positions with salaries less than $35,568:**

* Convert those positions below the threshold to hourly non-exempt positions which will require paying them overtime at time and one-half for all hours worked in excess of 40 per week.

**OR**

* Increase the salary of those positions to at least $35,568 in order to meet the new requirement.

While reviewing those positions you may use the same guidelines, below, that we used in 2016.

·      **Exemptions from the law** – teachers, religious, and priests are exempt from the law.  In addition, any positions whose essential function of their job is to evangelize, preach or teach the faith are not subject to the Fair Labor Standards Act (FLSA) based upon the Ministerial Exemption and would remain exempt from overtime.   That would include positions like Youth Minister, Faith Formation, Music Minister/Director, etc.

·      **Not Exempt from the law** –   positions that don’t have ministerial type functions as an essential function of their job - e.g. Teacher Aides, gift shop employees, administrative staff, maintenance staff, etc. would not be exempt from the law.

·      **Essential Functions** – a key point to remember is that this applies to the employees’ essential functions.  If someone spends some time on ministry and some time on administration (e.g. secretarial work) they may not qualify for the exemption.  If there is any gray area and a chance exists that the person may sometimes spend more time on administrative work, the Department of Labor will most probably require paying overtime.

Questions to ask:

·      Does a significant portion of the job duties directly relate to evangelization, liturgy, music ministry, faith formation?  If so, then the position qualifies for the exemption.  The term “significant” need not be more than 50% of the employee’s time spent on duties but such a measure is a good barometer to examine the issue.

·      If more than 50% of the employee’s time is spent on administration, office work, maintenance, bookkeeping then a thorough examination of the essential job duties must still be done as the position may not qualify for the exemption and therefore may require classification as hourly non-exempt, requiring overtime pay.

·      **Checklist** - The duties tests remain the same as they have in the past. The illustration below contains questions to help you determine if administrative employees who don’t meet the exemptions shown above qualify to be salaried exempt as of January 1, 2020.

Thanks to everyone as we work through this. Please reach out if you have any questions.

