



## DEPARTMENT OF LABOR OVERTIME RULE FACT SHEET FOR ANCOR MEMBERS

### General Background on FLSA

The Fair Labor Standards Act (FLSA) was passed in 1938. Among its worker protections are ensuring a federal minimum wage (currently \$7.25/hr), and providing that most workers are subject to overtime pay at one and one half times their hourly wage for hours worked over 40 hours in a work week.

Overtime requirements apply to all employees UNLESS they fall under one of several specific exemptions. One class of exemptions provided for in the law is under Section (13)(a)(1), which provides an exemption from overtime if an employee is qualified as a “white collar” worker, often referred to as EAP class (Executive, Administrative, Professional). To qualify for an exemption, employees generally must meet certain “duties” tests regarding their job duties performed, be paid on a fixed salary basis and compensated not less than \$455 per week (note that job titles do not determine exempt status, but the duties performed themselves). The Department of Labor has prepared additional fact sheets about the duties required by each of the categories: [Executive Exemption](#), [Administrative Exemptions](#), [Professional Exemption](#).

### History of Proposed Rule

President Obama issued a memorandum on March 13, 2014 directing the Department of Labor (DOL) to update the regulations that impact the overtime exemptions for white collar employees. Since the FLSA was enacted in 1938, the salary threshold has been updated seven times. It was most recently updated in 2004, resulting in the \$455/week standard, meaning one could not be exempt unless they qualified for the EAP duties test AND were compensated at least \$455/week or \$23,660 annually. If both requirements were met, those employees were exempt from overtime rules.

### Proposed Rule

The Department of Labor is now proposing to increase the salary level requirements to the 40<sup>th</sup> percentile of full-time salaried worker compensation, based on national data. This would increase the threshold to approximately \$50,440 annually (\$970/week), with an automatic adjustment mechanism built in to adjust the threshold into perpetuity. This would mean in order to qualify for the exemption, an employee would have to meet the EAP test AND earn at least the new threshold as a salary (projected to be \$50,440 in 2016). DOL estimates that if this rule is finalized, over 20 million workers would no longer meet the new requirements for exemption and therefore qualify for overtime pay. DOL considered several options upon which it based the increased salary level requirement and is asking for public comment on what salary level to support and the calculation to achieve it as well as input on other proposed changes to the rule. Comments to DOL are due by September 4, 2015 and it is estimated that it will take approximately one year to finalize the final rule.

[The Department of Labor’s Fact Sheet can be accessed here.](#)

[The Proposed Rule and Site to Provide Comments can be accessed here.](#)