

Federal Court vacates minimum salary level increase

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On Friday, November 15, a federal court in the Eastern District of Texas [vacated](#) the U.S. Department of Labor's 2024 Final Rule which sought to dramatically increase the minimum salary levels required for an employee to qualify for the Executive, Administrative, and Professional exemptions to the minimum wage and overtime requirements of the Fair Labor Standards Act.

The vacatur applies to all employers nationwide. It is not limited to the parties in the case, or to the jurisdiction of the court.

In short, the salary levels set by the Trump DOL's 2019 Final Rule remain in effect. The standard salary level in the 2019 Final Rule is \$684 per week, or \$35,568 annualized. The annual minimum compensation level for Highly Compensated Employees of \$107,432 is also now back in effect.

Déjà Vu all over again

If this story sounds familiar, it's because it is. The DOL attempted to drastically increase the minimum salary level for the EAP exemptions to the FLSA's minimum wage and overtime requirements in 2016. The Eastern District of Texas (same court, but different judge) permanently enjoined the 2016 Rule, concluding that it "increased the minimum salary for the EAP Exemption to a level that 'essentially made an employee's duties, functions, or tasks irrelevant if the employees' salary fell below the new minimum salary level,' and unlawfully 'made salary rather than an employee's duties' the determinative factor for the EAP Exemption."

In vacating the 2024 Final Rule, the court applied much the same reasoning and concluded that the DOL "simply does not have the authority to effectively displace the duties test with such a predominant salary-level test." Also, as in 2016, Friday's order invalidated the Final Rule's attempt to implement automatic indexing of the minimum salaries every three years, holding that the indexing violated the Administrative Procedure Act by sidestepping notice and comment rulemaking procedures that are the hallmark of federal regulations.

What's next

The decision is a major victory for employers who relied on the EAP exemptions to pay salaries without overtime to managers, supervisors, and employees in many other roles that qualified. Even if the DOL seeks reconsideration of the ruling, or appeals it to the U.S. Court of Appeals for the Fifth Circuit, the DOL is unlikely to continue that fight after President-Elect Trump takes office and there is new leadership in place at the DOL.

If you were waiting to increase your exempt employees' salaries until closer to the first of next year, then you're in the clear. You can continue to rely on the EAP exemptions using the standard salary level in the 2019 Final Rule: \$684 per week, or \$35,568 annualized, or, if applicable, the Highly Compensated Employee's \$107,432 annual minimum compensation level.

However, many of you may have already increased the salaries of affected employees starting July 1 to comply with the first step of the now vacated rule (from \$684 per week to \$844 per week). If so, you have a difficult decision to make. Depending on your jurisdiction, you may have the right to reduce salaries to prior levels, although this would almost surely result in employee dissatisfaction. The same is true for salary increases that have already been given to comply with the second step – the additional increase that would have taken effect January 1.

If you are planning to pause previously announced salary increases or planning to decrease salaries, please contact us for legal guidance and support.

We will provide further updates and analysis as it becomes available.

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