



DOL Issues New Rule Regarding Minimum Salary Level for White Collar and HCE Overtime Exemptions

Karl W. Butterer

Foster Swift Employment Labor & Benefits Law News E-Blast

September 25, 2019

Beginning on January 1, 2020, employers must pay certain employees higher minimum salaries to keep them within a “white collar” or “highly compensated employee” (HCE) exemption to the federal overtime pay requirement.

Below, you'll find a chart comparing the current status of the law to the new Final Rule. **To Qualify for White Collar Exemption**

Current Law	Final Rule Effective January 1, 2020
Employee paid on salary basis	Same
Employee primarily performs executive, administrative or professional duties	Same
Employee paid at least \$455 per week (\$23,660) annually	Employee paid at least \$684 per week (\$35,568 annually)

Current Law	Final Rule Effective January 1, 2020
Employee paid at least White Collar Exemption amount on salary basis (does not include nondiscretionary bonuses and incentive payments)	Same, but note that the salary amount increased under Final Rule
Employee's primary duty includes office or non-manual work	Same
Employee customarily and regularly performs at least one of the exempt duties of an exempt executive, administrative or professional employee	Same
Employee paid at least total compensation \$100,000 annually	Employee paid at least total compensation of \$107,432 annually (including minimum of \$684 per week)

Under the new Final Rule, employers will be permitted to use nondiscretionary compensation (e.g. bonuses and commissions) to satisfy up to 10% of the White Collar Exemption salary level, which can be paid on an annual or more frequent basis.

Employers will also be permitted to make one “catch-up” payment within one pay period after the end of each 52-week period to bring the employee’s compensation up to the required salary level. This “catch-up” payment may equal up to 10% of the required salary level.

AUTHORS/ CONTRIBUTORS

Karl W. Butterer

PRACTICE AREAS

Employer Services
Employment Law
Employment Litigation
Labor Relations



The new law does not automatically update the minimum required salary levels, but the Department of Labor (DOL) anticipates updating the salary levels every four years through the regular notice-and-comment rulemaking. For the full text of the Final Rule, [click here](#).

Please call Karl Butterer (616-726-2212) or another member of the Employment Services practice group for advice on how to comply with the new law.

