

Alert

Overtime Exemptions for Educational Institutions

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The Fair Labor Standards Act (“FLSA”) is the federal wage and hour law that generally requires covered employers to pay overtime (at time-and-one-half of employees’ regular hourly wage rates) if employees work over 40 hours in a workweek. The FLSA, however, contains certain broad exemptions. If an employee is “exempt,” the employer is not required to pay the employee overtime pay.

The U.S. Department of Labor (“DOL”) issued a new Fact Sheet¹ for educational institutions on who may qualify as an exempt employee. Although the Fact Sheet references higher education institutions, the exemptions also apply to primary and secondary schools. The Fact Sheet discusses the exemptions for professional, administrative and executive employees in detail, including applicability to teachers and coaches.

The Fact Sheet notes that the federal minimum salary rate of \$455 per week may increase. Employers must also comply with state wage and hour laws. New York’s law on overtime exemptions generally follows federal law, except that the salary level for the exemptions under New York’s Labor Law has long exceeded the federal rate. Currently, the minimum salary required in New York for large employers (defined as 11 or more employees), in order for the executive or administrative exemption to apply, is \$975 per week, increasing to \$1,125 on Dec. 31, 2018.

Employers should review their classifications of employees as exempt or non-exempt. Class-action lawsuits for overtime violations have become increasingly common and are likely to continue. These lawsuits can be extremely costly, as they can result in back pay of up to six years (under New York law), double damages and attorneys’ fees.

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If you have any questions concerning this *Alert*, please contact your attorney at Schulte Roth & Zabel or one of the authors.

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¹ Fact Sheet available [here](#).