



Monthly Strategies

HR Strategies, LLC

Volume 21, Issue 7
July 1, 2024

The Importance of Civility

This year at SHRM's Annual Conference one of the focus areas was on the importance of civility. Some of the lessons learned were practicing civil behavior establishes a safe and empathetic environment where individuals can contribute their best ideas, knowing they will be heard and valued.

Civility is more than making others feel comfortable; it's about creating a dynamic, diverse, and productive workplace where everyone can thrive.

Some staggering information that was shared during the conference is that there are 161 million people who work in the U.S. every day and U.S. workers collectively experience 171 million acts of incivility per day and most recently based on a SHRM survey, U.S. workers experience approximately 7 million acts of incivility every hour.

We are all responsible for championing better workplaces through open and civil dialogue.

Building trust and creating a safe space for others to share their thoughts can begin with you. The right ingredients make all the difference. Below are some ingredients to ensure you are having civil conversations.

- **Empathy** - Understand different viewpoints.
- **Respect** - Listen without judgment.
- **Transparency** - Speak with clear intentions.
- **Inclusion** - Value every voice

DOL Change Effective 7/1/24

A couple of months ago the Department of Labor announced a final overtime rule, *Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees*. The

rule revises the regulations issued under the Fair Labor Standards Act (FLSA) that implement the exemptions from minimum wage and overtime pay requirements. The first phase of the rule becomes effective July 1, 2024 and the second phase becomes effective January 1, 2025. This final rule has the potential to impact a significant number of currently overtime exempt employees.

Current Overtime Rules and Thresholds -

The FLSA, amongst other things, requires that employees be paid overtime for all hours that are worked above 40 hours in a workweek. There are exemptions to these overtime rules, which allow an employer to forgo paying overtime to certain employees. The "white-collar" exemptions apply to executive, administrative, or professional (EAP) employees who receive a fixed and predetermined salary, meet a certain salary threshold, and perform executive, administrative, or professional duties. There is also an exemption for highly compensated employees (HCE).

The final rule primarily updates the salary level provision of the EAP and HCE exemptions. Previously, the annual salary threshold for the EAP exemption was \$35,568 and \$107,432 for the HCE exemption.

Final Rule Updates - The final rule revises the regulations in three ways:

1. **Increases the minimum salary threshold level for EAP exempt employees.** The final rule increases the salary threshold required to exempt a bona fide executive, administrative, or professional employee from federal overtime requirements. The new salary threshold will occur in two phases. **Effective July 1, 2024, the threshold will increase to \$844 per week, which is the equivalent of an annual salary of \$43,888.** Effective January 1, 2025, the threshold will then increase to

\$1,128 per week, which is the equivalent of an annual salary of \$58,656.

2. **Increases the highly compensated employee total annual compensation threshold.** The final rule also increases the earnings threshold for the highly compensated employee exemption in two phases. **Effective July 1, 2024, the total annual compensation requirement for highly compensated employees will be \$132,964.** Effective January 1, 2025, the annual compensation requirement will increase to \$151,164.
3. **Provides for the automatic updating of these thresholds every three years.** The final rule implements a mechanism that provides for automatic updates to the thresholds listed above based on wage data at the time of the update.

Potential Challenges to the Rule - It is highly likely that once the final rule is formally published, it will face legal challenges. In 2016, a very similar rule was announced that would have increased the salary thresholds and provided for automatic increases. This Obama Administration rule was held up in legal challenges prior to its implementation and did not survive the Trump Administration. With the timing of the final rule's publication prior to the November 2024 election, it is difficult to know if the rule will withstand legal challenges or a potential new administration.

Takeaways - Despite any legal challenges the final rule may face, employers should still understand the impacts of the final rule and be prepared for the rule to potentially take effect in July 2024. Employers should consider the following items prior to the rule's effective date to ensure a seamless transition should the rule withstand legal challenges:

- **Review current exempt workforce.** Employers should review the make-up of their current workforce to understand how their existing workforce is classified. This is an opportune time for employers to examine their current exemption

classifications to identify any existing misclassifications.

- **Understand how the new rule will impact current exempt employees.** Once employers have an understanding of the make-up of their current workforce, they should review the rule to see if any current exempt employees may be impacted by the final rule.
- **Develop a strategy for compliance with the rule.** There are several options available to employers who have exempt employees who will be impacted by the new rule. One of the most straightforward options may be to increase existing exempt employees' salaries to the new threshold when the rule goes into effect. Another solution may be to reclassify employees as nonexempt, which could subject the employer to increased overtime costs. In addition to the new federal rule, employers will also want to ensure that the states in which they operate do not have additional salary thresholds for overtime exemptions.
- **Additional Considerations.** Nonexempt employees must track their time according to the employer's timekeeping processes and policies. With the implementation of this new rule, and the potential for more employees to become nonexempt, employers may want to consider reviewing their existing timekeeping policies and procedures to ensure that they are compliant and accurate.

Employers who have questions about the final rule should reach out to their labor and employment attorney or HR consultant to discuss strategy and to assist with mitigating the effects of these changes.

Contact HR Strategies at 302.376.8595 or info@hrstrategies.org if you would like support or would like to learn more about the items in this newsletter. Please contact us if you would like to be removed from our Monthly Strategies mailing list or if you would like for us to add someone to our mailing list.