



AMERICAN OPTOMETRIC ASSOCIATION

US Department of Labor expands overtime rules to millions of salaried workers effective July 1, 2024—What ODs Need to Know

New rules regarding eligibility for overtime pay will go into effect on July 1. Review the information below to assess the impact of these changes on your business or employment.

What types of workers are impacted?

The final rule impacts employees whose salaries fall between \$35,568 and \$58,656 when they work overtime (over 40 hours in a work week). However, some staff whose salaries are between \$35,568 and \$58,656 will not be impacted by the rule if they meet certain criteria. Keep reading!

How do I figure out if an employee will be eligible for overtime? What are the steps to take?

Certain job responsibilities and salaries are not eligible for overtime pay. If you answer **YES** to all three of the questions below, the employee is **NOT** eligible for overtime.

1. Duties test: The employee primarily performs executive, administrative, or professional functions related to the management or business operations of the employer or its customers (Yes or No)
2. Salary basis test: The employee is paid a predetermined and fixed amount that does not depend on the quality or quantity of his or her work (Yes or No)
3. Salary level test: The employee is paid at or above the minimum weekly salary level set by DOL. (Yes or No) (See below for the current salary level test until June 30, 2024; the salary level test starting July 1, 2024; the salary level test starting July 1, 2025; and the salary level test starting July 1, 2027).

Current Salary Level Test Threshold (through June 30, 2024): \$684 per week (equivalent to \$35,568 annually).

July 1, 2024 Threshold: \$844 per week (equivalent to \$43,888 annually)

January 1, 2025 Threshold: 1,128 per week (equivalent to \$58,656)

July 1, 2027 Threshold: Automatic increase (to be determined)

Example: On July 1, 2024, your office manager performs administrative duties and has an annual salary of \$40,000. If the office manager works more than 40 hours during a given workweek, you will be required to pay the manager 1.5 times his or her regular rate of pay for time worked that exceeds 40 hours.

Which Doctors of Optometry are Not Eligible for Overtime?

Many doctors of optometry will not qualify for overtime pay because of the “Licensed Professional Exemption” (LPE). A doctor of optometry that earns \$844 per week or more on July 1, 2024 and \$1,128 per week or more on January 1, 2025 would not be eligible for overtime if they are performing work that is “predominately intellectual in character and which includes work requiring the constant exercise of discretion and judgment; and the advanced knowledge is in the field of science or learning.” It is believed that performing eye exams meets this criteria and therefore does not qualify to pay overtime to doctors of optometry.

Example: You employ an associate Optometrist and pay him more than \$844 per week. If, after July 1, the associate works over 40 hours in a given workweek, you will NOT be required to pay 1.5 times his regular rate of pay for time worked that exceeds 40 hours.

Are non-doctors who are compensated at high levels eligible for overtime?

Overtime pay is not required for highly compensated employees if the employee meets or exceeds certain compensation levels, the employee’s primary duties involve office and not manual work, and the employee regularly performs executive, administrative, or professional duties. As on July 1, individuals who make \$132,964 or more and perform the duties listed above would not be eligible for overtime. On January 1, 2025. Individuals who make \$151,164 or more and perform the duties listed above would not be eligible for overtime.

Example: You own a large multi-office practice and employ a person who supervises a couple of employees. If the employee is paid a total annual compensation level of less than \$151,164 on July 1, 2024, you will be required to pay the employee 1.5 times his or her regular rate of pay for time worked that exceeds 40 hours.

How do the new rules intersect with state laws?

Many individuals who were previously not eligible for overtime will become eligible for overtime. Ensure that all state laws for individuals earning overtime pay are adhered to.

When does the new rule go into place?

Changes begin on July 1, 2024 and continue to change January 1, 2025 and again on July 1, 2027.

Are state optometric associations impacted?

Generally, all state optometric associations will be impacted by this rule change as well. Although non-profit organizations that do not have annual gross sales or business transactions equaling \$500,000 or more can be exempt from overtime rules, this exemption does not apply if the non-profit engages in interstate commerce. Transmitting member data across state lines to the AOA and paying for staff and volunteers to attend AOA meetings in other states are considered interstate commerce by the Department of Labor. Association leadership should identify

employees of the association that fall into the impacted salary thresholds. Volunteers for the association would not be impacted by the new rules.

If I am a practice owner, what should I do to ensure I comply with these new federal rules?

Identify which job positions in your practice would be affected by the updated salary thresholds.

Will there be legal challenges to these rules? Any other factors that could impact implementation?

Legal challenges are likely. In addition, given that 2024 is a presidential election year, that could play a factor and ultimately delay the implementation date of July 1, 2024. AOA will keep you posted of any delays in implementation.

Additional information is available at:

<https://www.dol.gov/agencies/whd/overtime/rulemaking/small-entity-compliance-guide#salaryLevelTest>.