

# CAPLAW News Flash



## Federal Judge Temporarily Blocks New FLSA Overtime Rule

On Tuesday, November 22, 2016, a federal judge in the U.S. District Court for the Eastern District of Texas issued a nationwide preliminary injunction preventing the new federal Fair Labor Standards Act (FLSA) overtime rule from taking effect on December 1, 2016. The new overtime rule expands eligibility for overtime pay by increasing the salary threshold for the executive, administrative, or professional (EAP) exemption from \$455 per week to \$913 per week (or \$23,660 per year to \$47,476 per year). Under the new rule, the salary level for the EAP exemption would also automatically adjust every three years to correspond to national salary level percentiles.

Twenty-one states brought suit against the U.S. Department of Labor (DOL) challenging the new overtime rule and filed an emergency motion for preliminary injunction to halt or delay implementation of the rule. They argued that the DOL exceeded its authority under the FLSA by increasing the salary threshold so significantly and by providing for an automatic updating mechanism. The states claimed that they would suffer irreparable harm given the significant costs of complying with the new rule. The court agreed with the states, but appeared to go even further, questioning the DOL's authority to establish any salary threshold.

A preliminary injunction is a **temporary** measure that suspends implementation of the new overtime rule in order to give the court time to issue a ruling on the merits of the case. Until that time, the injunction maintains the status quo, meaning that in order to be properly classified as exempt from overtime pay, employees must generally continue to earn at least \$455 per week on a salary basis and meet the requirements of the applicable EAP duties tests. Although the preliminary injunction prevents the overtime rule from

going into effect nationwide on December 1, it does not necessarily mean that the rule is gone forever. For example, implementation of the rule could be restored by an appeals court, or it could return in a different form under the next presidential administration.

CAAs that have already reclassified employees or increased salaries to comply with the new overtime rule may consider suspending or rolling back implementation, though they should be sure to follow their organization's procedures for making changes to personnel policies (e.g., certain changes may require board approval or some form of notice to employees). CAAs that have not yet implemented the new overtime rule should continue to identify the employees that would be impacted by an increase in the salary threshold and determine their best options for compliance, should the rule go into effect. CAPLAW's [FAQ](#) on the new overtime rule discusses some of the options available for compensating employees under the FLSA. Other CAAs may decide that it is more efficient to proceed with implementing the changes they already have planned.

CAPLAW will continue to monitor developments on the new overtime rule and update the Community Action network on any changes as they arise. If you have questions about these issues, please feel free to contact CAPLAW for assistance.

*This News Flash is part of the Community Services Block Grant (CSBG) Legal Training and Technical Assistance (T/TA) Center. It was created by Community Action Program Legal Services, Inc. (CAPLAW) in the performance of the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Community Services Cooperative Agreement – Grant Award Number 90ET0441-03. Any opinion, findings, conclusions, or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Health and Human Services, Administration for Children and Families.*

CAPLAW  
178 Tremont St.  
Boston, MA 02111

 Like

 Tweet

 Forward

You're receiving this email because you signed up at [caplaw.org](http://caplaw.org), are a CAPLAW Member, or registered for one of our events.

[Preferences](#) | [Unsubscribe](#)