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Labor & Employment Alert

October 1, 2024

DOL's authority to set salary thresholds for FLSA overtime exemptions upheld

By David M. Prager

The Fifth Circuit's support of the DOL's regulatory authority could have implications for the scheduled 2025 salary threshold increase.



What's the impact?

- Employers must review and potentially adjust employee classifications and salaries to comply with the upcoming January 2025 FLSA salary increase for exempt employees.
- Employers should closely monitor legal developments involving salary thresholds.

November 18, 2024, update:

On November 15, 2024, the Eastern District of Texas invalidated the Department of Labor's (DOL's) 2024 Rule, which raised salary thresholds for Fair Labor Standards Act (FLSA) exemptions. The court ruled that the DOL exceeded its authority by emphasizing salary levels over job duties, potentially displacing the duties-based exemption analysis required by the FLSA. This decision halts enforcement of the 2024 Rule, including the planned January 2025 increase to \$1,128 per

week (\$58,656 annually). Employers must comply with the 2019 threshold of \$684 per week (\$35,568 annually) and should closely monitor developments as further appeals or regulatory action could follow.

The recent *Mayfield v. Department of Labor* decision from the Fifth Circuit has affirmed the DOL's authority to set salary thresholds for FLSA overtime exemptions. This ruling comes ahead of the scheduled salary threshold increase in January 2025, which will raise the weekly salary requirement for exempt employees from \$844 to \$1,128. The decision supports the DOL's regulatory authority but also acknowledges concerns that the increase could impact the duties test for exemption classifications.

FLSA and recent salary threshold increases

The FLSA sets minimum wage, overtime pay, and other labor standards affecting most public and private sector employees. For employees to qualify for the "white-collar" exemptions—executive, administrative, and professional—their roles must meet certain criteria related to duties and be compensated at or above a set salary threshold. The DOL updates this threshold periodically to reflect changes in economic conditions and maintain the standard of living for exempt employees.

In 2019, the threshold was raised to \$684 per week (\$35,568 annually). On July 1, 2024, it was increased to \$844 per week (\$43,888 annually), with a further increase scheduled for January 1, 2025, to \$1,128 per week (\$58,656 annually). These changes are intended to extend overtime protections but have prompted legal challenges from business groups and some states, arguing that the DOL has exceeded its authority.

The *Mayfield* ruling examines regulatory authority

In *Mayfield*, the plaintiffs contended that the DOL overstepped its bounds by setting a salary threshold for exempt employees, arguing that the FLSA's language focuses on job duties, not salary, for determining exemptions. The Fifth Circuit disagreed, ruling that the DOL has the power to define salary levels as part of its regulatory responsibilities. The court noted that salary thresholds have been a longstanding aspect of the FLSA exemptions, and the DOL's adjustments fall within its delegated authority.

The decision, however, acknowledged that an excessively high salary threshold might overshadow the duties, which is a key component in determining exempt status. *Mayfield*, therefore, left open further legal challenges to the 2025 increase. Future (and ongoing) challenges may focus on whether the salary level is reasonable and proportionate—or excessively high—especially for industries where the nature of the work justifies exempt status despite lower

salaries. They could also question whether the increase exceeds the DOL's authority under the major questions doctrine articulated by the US Supreme Court in the *Loper Bright Enterprises v. Raimondo* decision. Although rejected by the Fifth Circuit in *Mayfield*, further challenges could focus on the millions of employees expected to be impacted by the June 2024 and upcoming January 2025 increases.

How can employers prepare for salary threshold increases?

- / The *Mayfield* decision reinforces the DOL's ability to set and adjust salary thresholds for exempt classifications. Employers should prepare for the upcoming increase to \$1,128 per week (\$58,656 annually).
- / The ruling does not completely shield the 2025 increase from further legal challenges, so employers should keep a close eye on the pending lower court litigation challenging the 2025 increase.
- / Employers operating in states with their own salary thresholds, such as California and New York, must continue to comply with the stricter standard. The *Mayfield* decision does not impact state-specific regulations.

Ensure compliance with FLSA standards

The *Mayfield* decision supports the upcoming FLSA salary threshold increase, reinforcing the DOL's authority to set these standards. Employers should take proactive steps to ensure compliance while remaining aware of the potential for ongoing legal and legislative changes.

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