



## FAIR LABOR STANDARDS ACT FACT SHEET ADMISSION AND ENROLLMENT COUNSELORS

### Overtime Pay Regulations

On Sept. 24, 2019, the US Department of Labor issued a final rule modifying overtime pay regulations. The new rule went into effect on Jan. 1, 2020, and raises the salary threshold for classifying employees as “exempt” from receiving overtime pay for time worked in excess of 40 hours per week. The new threshold is \$684 per week, or \$35,568 per year.

<b>New Rule</b>	<u>Effective Date:</u> Jan. 1, 2020 <u>Salary Threshold:</u> \$684 per week (\$35,568 per year)
<b>Old Rule</b>	<u>Expiration Date:</u> Dec. 31, 2019 <u>Salary Threshold:</u> \$455 per week (\$23,660 per year)

While this document is intended to serve as a helpful resource, NACAC encourages you to consult your legal counsel with any specific concerns related to your admission office.

### How do the new regulations affect admission/enrollment counselors?

According to this [Department of Labor fact sheet](#):

*Various employees at higher educational institutions may qualify as exempt administrative employees. The administrative exemption applies when the following requirements are met:*

- 1. The employee’s compensation must satisfy the above-referenced salary basis and salary level tests;*
- 2. The employee’s primary duty must be the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer’s customers; and*
- 3. The employee’s primary duty must include the exercise of discretion and independent judgment with respect to matters of significance.*

See [29 C.F.R. § 541.200](#). Such administrative employees in higher education might include, for example, admissions counselors or student financial aid officers. An employee’s qualification for the exemption depends on his or her actual job duties; job titles alone are not sufficient for determining whether an employee satisfies the duties test.



National Association for  
College Admission Counseling

## **Can institutions compensate nonexempt employees with comp time in lieu of overtime pay under the Fair Labor Standards Act (FLSA)?**

According to this [Department of Labor fact sheet](#):

*Public universities or colleges that qualify as a “public agency” under the FLSA may compensate nonexempt employees with compensatory time off (or “comp time”) in lieu of overtime pay. A college or university is a public agency under the FLSA if it is a political subdivision of a State. When determining whether a college or university is a “political subdivision,” the Department considers whether (1) the State directly created the entity, or (2) individuals administering the entity are responsible to public officials or the general electorate.*

*If the public university or college qualifies as a public agency, nonexempt employees generally may not accrue more than 240 hours of comp time. However, employees engaged to work in a public safety activity, an emergency response activity, or a seasonal activity may accrue as much as 480 hours of comp time. See [29 U.S.C. 207\(o\)\(3\)\(A\)](#). Private higher education institutions may not pay employees comp time in lieu of overtime pay.*

### **Note on Recruitment Travel and Overtime Pay**

NACAC is frequently asked whether overtime regulations apply to admission officers who travel for student recruitment. To ensure compliance, we encourage admission offices to contact their university counsel with specific questions. The [Department of Labor website](#) houses many resources, guides, and fact sheets about the Fair Labor Standards Act and overtime pay.

### **Department of Labor Resources**

- [Overtime Pay Overview](#)
- [Overtime Final Rule Information, FAQs, and Additional Guidance](#)
- [Overtime Final Rule and Higher Education Fact Sheet](#)