

Update on minimum salary requirements for Church “exempt” staff

The Department of Labor (DOL) is raising the minimum salary requirement under the Fair Labor Standards Act (FLSA). It is important that all church employers review employee roles and ensure they apply the new FLSA guidance appropriately.

Previously, employees needed to meet criteria to be exempt from overtime: a fixed salary above \$35,568 annually, specific job duties, and a salary basis test. The recent FLSA update not only increases the salary threshold to \$43,888 starting July 1, 2024, but it will jump again to \$58,656 on January 1, 2025.

What is the FLSA?

The Federal Labor Standards Act (FLSA) became law in 1938. Today, the FLSA requires covered employers to pay their employees at least the federal minimum wage, and overtime premium pay of one and a half times the regular rate of pay for all hours worked over 40 hours in a workweek. However, the FLSA includes a few “exemptions” from the minimum wage and overtime requirements.

Basically, employees governed by the FLSA are to be classified as either “non-exempt” or “exempt”.

- Non-exempt employees are usually paid on an hourly basis, must be paid minimum wage, and they also must be paid overtime.
- Exempt employees generally are paid on a salary basis and are not eligible to receive overtime. To be exempt from this overtime pay rule, the employee has to be classified as an executive, administrative, or professional employee – often called the “white collar” exemptions. Each category of exempt employees is defined specifically under the FLSA.
- Clergy and those who function in a similar religious / ministry capacity may also be exempt from federal wage and hour laws under what is called the “ministerial exemption”.

New minimums phase-in

The new regulations establish the minimum salary at the 35th percentile of full-time salaried workers in the lowest wage Census region, which is \$1,128. Because the new minimum represents a significant increase over the previous minimum of \$684, the DOL opted for a phased-in approach.

Phase 1: \$844 per week (equivalent to \$43,888 per year) on July 1, 2024.

Phase 2: \$1,128 per week (equivalent to \$58,656 per year) on January 1, 2025.

After that, the minimum salary will change every three years on July 1, starting in 2027. Note: Groups have filed a suit to block previous increases in the minimum salary. New lawsuits are expected to challenge this latest increase. Some uncertainty will exist until the increase is officially implemented.

What this means for churches and church leaders

This change requires attention from employers to ensure all employees are correctly classified. For those already classified as non-exempt, nothing changes; they continue to receive overtime. However, exempt employees may need re-classification if they no longer meet the new criteria or have their salaries bumped up to the new minimum criteria. Next steps:

1. All churches should evaluate all employee positions and determine which positions are subject to the **ministerial exception**. That is because ministerial exception positions (clergy, pastors, ministers, and others with spiritual duties) are exempt from some labor laws, including overtime laws and do not need to meet the new criteria.
2. From there, a church must determine what positions are impacted under the new minimum salary test. During Phase 1, the church will need to look at positions with compensation of less than \$844 per week, or \$43,888 annually. The church must either increase “exempt” compensation to the new FSLA minimums or re-classify these workers as “non-exempt” (hourly).

Applying the ministerial exception

The ministerial exception can apply to a range of church roles that serve the organization's spiritual and pastoral mission, whether or not the person is ordained. There is no checklist from the DOL to help determine whether the ministerial exception applies. Instead, a variety of factors may be important based on their relationship to an employee's role in conveying the church's message and carrying out its mission. As such, churches need to review and understand what positions are considered to have a ministerial exception. Since an employee's duties are the core of the analysis, it helps to understand how the concepts may be applied in various church areas and departments.

Usually Meet Criteria for Ministerial Exemption

- Priests / deacons
- Children / youth ministers
- Chaplains / Counselors
- Seminarians, Interns (if they have spiritual duties and responsibilities)
- Church media and communications
- Music ministry - music directors, choir directors, worship musicians
- Pre-K Schools and daycares: the person in charge of the church-operated school (Pre-K) or daycare as do teachers with mandatory spiritual duties / responsibilities.
- Church schools (K-12) should note that teachers and school administrators are not subject to the minimum salary test

Usually Do Not meet Ministerial Exception criteria (unless they have religious duties outside of business office):

- Administrative support
- Custodial / Facilities
- Finance / Accounting
- Teachers (Pre-K / day care) who teach only secular subjects and have no responsibility to train the students spiritually