



November 7, 2023

Director, Division of Regulations, Legislation, and Interpretation
Wage and Hour Division
U.S. Department of Labor
Room S-3502
200 Constitution Avenue, N.W.
Washington, DC 20210

Re: Notice of Proposed Rulemaking (NPRM), “Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees” (RIN 1235-AA39)

Submitted online via Federal eRulemaking Portal: <https://www.regulations.gov>

Dear Sir/Madam:

The Association of Christian Schools International (ACSI) respectfully submits these comments in response to the notice of rulemaking referenced above. ACSI is the largest Protestant school association and serves 2,300 member schools in the United States alone and another 3,000 schools outside the U.S. for a total of over 5,000 member schools around the globe. Through extended services and resources beyond formal membership, ACSI has the privilege of serving and influencing over 25,000 Christian schools all over the world. ACSI exists to strengthen Christian schools and equip Christian educators worldwide as they prepare students academically and inspire them to become devoted followers of Jesus Christ. Our membership includes a substantial numbers of early education providers, K12 Christian schools and Christian universities.

These changes to the federal overtime pay requirements are likely to have a serious and wide-ranging impact on faith-based school campuses across the country. While the proposed rule would raise the standard salary threshold nearly 55% to \$55,068 annually, DOL has further projected the most recent data would potentially put the final rule increase to approximately 70% or over \$60,000 for the rules exemptions to apply. This dramatic increase cannot be absorbed by our small, nonprofit institutions constrained by limited resources and fixed budgetary income. To move forward with this incredible increase will have the impact of shrinking or limiting their operational capacity,

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exacerbate financial burdens, and harming the academic efforts of the schools. The bottom line is that our members cannot afford the cost to implement the proposed regulations. Such implementation will require roles to be cut and potentially student aid programs to be lessened.

1. Sixty-day effective date is not attainable for Religious, nonprofit schools.

Faith-based schools are not creating widgets nor selling goods where production can be increased nor decreased on a day-to-day need. Staffing is not contingent on fluctuating market demand but is relatively static and cost are known a year in advance as families commit to a school for the following academic year. These commitments become the projections for staffing budgets which then translate to tuition cost and charitable donation raising efforts. Schools cannot easily shift to bear the significant cost increases as is proposed by the Department. Private education is a contractional relationship and prices for the following school year are generally set a year in advance and then paid over the following year. Staffing needed to support the educational efforts of the school cannot easily be shifted mid-year. Schools need time to adjust yearlong budgeting and tuition cost before new school year contracts and enrollment agreements are sent out.

If the Department moves forward implementing widescale salary adjustments in less than one academic year it will likely cause reallocation of institutional aid and curtail the competitiveness of financial aid offerings, scholarships, and student support services as well as staff to keep the school and its programs operational. It will further impact employment contracts and student enrollment contracts.

We urge the Department to consider increasing the salary test threshold in stages over a multi-year period. A gradual phase-in would allow our schools to appropriately plan for and fund the necessary salary and staffing adjustments in light of their current salary levels and financial planning constraints. Many employees choose to work in Christian education because they derive benefits beyond financial compensation, including contribution to the organization's mission and values.

2. The proposed level of increase will have a detrimental impact on our industry. The Department just went through a significant exemption salary increase in 2019 that our industry is still absorbing the impact of. This on the heels of a global pandemic. The level of increase, pushing a potential 70%, will have a significant negative impact on the faith-based school industry. Our average school serves 250 students with an average of less than 50 employees. If our

schools were for profit entities, they would be considered small businesses by the U.S. Small Business Administration. Such drastic changes to employee pay will not be easily absorbed and likely will lead to staffing cuts and student service limitations.

The Department should recognize this one size fits all approach to the salary basis test does not work well for the nonprofit sector. While most of our school's teaching and administrative staff qualify for the Department's exemptions rules under 29 C.F.R. § 541.204(b) and 29 C.F.R. §§ 541.303(d) our member schools have other multiple staffing needs that are treated to the same rules as the for profit sector and put undue burden on our schools. We would ask the Department seek to revisit and provide more favorable standards for its definitions of "enterprise coverage" and "individual coverage" of non-profit charitable organizations instead of adding additional financial burdens to entities already seeking the common good of society. Thank you for your consideration.

Respectfully submitted,

Philip Scott, Esq.
Vice President for Legal Affairs