

# School Law Update

November, 2016

## Department of Labor Overtime Rule Blocked

School districts have been preparing for the December 1, 2016, effective date of the Department of Labor's new overtime rule which would require certain employees (not including teachers or academic administrative employees) to be paid a minimum of \$913 per week (\$47,476 annually) to qualify as exempt from the overtime requirements of the Fair Labor Standards Act.

In September, a group of states sued the Department of Labor (DOL) to challenge the rule, seeking an emergency injunction to block the rule from going into effect. On November 22, a federal district court judge in Texas granted the emergency injunction to stop the new rule from taking effect. The Court ruled that the DOL has authority to define which employees meet the duties tests under the Fair Labor Standards Act's executive, administrative and professional exemptions, but that authority does not extend to setting a minimum salary standard. The Court determined that, because the rule set a minimum salary level, the rule is unlawful and barred the DOL from implementing or enforcing the rule.

The ruling states that the injunction barring the implementation of the rule is nationwide because the rule was to apply in all states and irreparable injury would occur nationwide were the rule to go into effect.

It is important to note that the injunction is preliminary only; it is not a final ruling on the validity of the DOL rule. The judge's opinion states that, with the quickly approaching effective date, issuing the injunction will allow the court to render a more meaningful decision on the validity of the rule. It is also important to note that the DOL might appeal this preliminary injunction. We will keep you apprised of further developments in this matter.

We recognize that this decision will be a welcome reprieve for many school districts, as well as a source of frustration for those who have worked through and communicated or implemented pay changes in order to comply with the new rule. For now, school districts should assess whether they will move ahead with any exemption and pay changes they had planned to implement or if they will put things on hold pending further developments in this area. Any school district that made changes to employee classifications or pay at the start of the school year in anticipation of these new regulations should carefully consider any contractual obligation to an employee, especially if it decides to change any of its employee classifications or pay mid-school year as a result of this injunction.

---

**Disclaimer:** Boardman & Clark LLP provides this material as information about legal issues. It does not offer legal advice with respect to particular situations and does not purport that this newsletter is a complete treatment of the legal issues surrounding any topic. Because your situation may differ from those described in this Newsletter, you should not rely solely on this information in making legal decisions. In addition, this material may quickly become outdated. Anyone referencing this material must update the information presented to ensure accuracy. The use of the materials does not establish an attorney-client relationship, and Boardman & Clark LLP recommends the use of legal counsel on specific matters.

---

Michael J. Julka | (608) 286-7236  
James K. Ruhly | (608) 283-1738  
Eileen A. Brownlee | (608) 822-3251  
JoAnn M. Hart | (608) 286-7162

Douglas E. Witte | (608) 283-7529  
Steven C. Zach | (608) 283-1736  
Richard F. Verstegen | (608) 286-7233  
M. Tess O'Brien-Heinzen | (608) 283-1798

Jennifer S. Mirus | (608) 283-1799  
Andrew N. DeClercq | (608) 283-1734  
Brian P. Goodman | (608) 286-7222

---