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Nationwide Injunction Halts New Department of Labor Overtime Rule (for now)

On November 22, 2016, a federal judge in the United States District Court for the Eastern District of Texas issued a preliminary injunction enjoining the U.S. Department of Labor from implementing and enforcing its final rule updating the overtime regulations under the Fair Labor Standards Act (“FLSA”). The injunction is effective on a nationwide basis until further order of the court, and applies to Illinois school districts and joint agreements. A copy of the order can be accessed at [https://www.texasattorneygeneral.gov/files/epress/Overtime_-_PI_Grant_\(11-22-16\).pdf?cachebuster%3A93=&utm_content=&utm_name=&utm_term](https://www.texasattorneygeneral.gov/files/epress/Overtime_-_PI_Grant_(11-22-16).pdf?cachebuster%3A93=&utm_content=&utm_name=&utm_term).

The final rule, which was to take effect on December 1, 2016, more than doubled the salary threshold at which white-collar workers are exempt from overtime pay, from \$23,660 (annually) to

\$47,476 (annually). White-collar workers include full-time, bona fide executive, administrative or professional employees, and computer employees. Neither the final rule nor the preliminary injunction impacts teachers; teachers are exempt from overtime requirements regardless of their salary. The final rule and the preliminary injunction also does not affect other categories of employees.

As a result of the injunction, school districts and joint agreements will continue to determine the eligibility of employees such as administrative assistants and computer employees under the current FLSA rules. Those employees who were previously entitled to overtime pay (e.g. custodians) remain entitled to overtime pay. Teachers and most administrators remain exempt from overtime pay.

It must be stressed that the preliminary injunction is not a final order, and can be modified or dissolved at any time. School districts and joint agreements should use whatever additional time is given by this injunction to continue their plans for implementing the final rule, so as not to be caught off-guard.

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Also keep in mind that Illinois Department of Labor rules issued pursuant to the Illinois Wage Payment and Collection Act require all employers, including school districts, to keep a daily record of hours worked by all employees. Failure to do so will deprive employers of the evidence needed to defend an overtime pay dispute, regardless of which FLSA rules are in effect.

If you have any questions, please contact one of our attorneys in Flossmoor at (708) 799-6766 or in Oak Brook at 630-928-1200.