

Small Business Bulletin

Provided by ToughComp

Stay Interview Best Practices

The Importance of Stay Interviews

Stay interviews attempt to discover what makes an employee want to work—or stop working—for the organization and any aspects of the company that need to be addressed to make working there more attractive. Not only can stay interviews enlighten small businesses about issues before they manifest into employee departures, but they also help employees feel heard, showing them that their employer cares enough about retaining them to improve workplace operations.

Stay Interview Best Practices for Employers

Impactful stay interviews can help maximize employee satisfaction, engagement and retention. Consider the following best practices for stay interviews:

- **Establish clear objectives.** Before conducting stay interviews, employers should establish clear objectives and goals. It's important to determine what information should be gathered from employees and how it will be used to improve engagement and retention strategies.
- **Integrate stay interviews into onboarding.** Stay interviews aren't just for the company's tenured employees; they can be incorporated into the 30-, 60- and 90-day milestones of employee onboarding. By gauging employee satisfaction early on, small businesses can proactively address any issues and make necessary adjustments.
- **Create a safe and confidential environment.** Employees should be assured that their feedback will be kept confidential and that there will be no negative repercussions for sharing their thoughts and concerns.
- **Train interviewers.** Ensure that managers and HR professionals conducting stay interviews are adequately trained in effective communication and active listening skills.

- **Ask open-ended questions.** Open-ended questions can prompt employees to freely share their thoughts, feelings and experiences. Examples of open-ended questions include:
 - Are there any challenges or obstacles you're currently facing in your role?
 - How can we better support your professional growth and development?
 - What would cause you to consider leaving the organization?
- **Identify actionable insights.** After conducting stay interviews, feedback must be analyzed to identify common themes, trends and actionable insights.
- **Follow up and track progress.** Following up with employees after stay interviews is crucial to communicate any actions taken based on their feedback and provide progress updates.

Stay interviews represent a proactive approach to employee retention, as they allow small businesses to gain valuable insights into the factors influencing job satisfaction and commitment. By implementing best practices, organizations can strengthen employee engagement, improve retention rates and foster a positive workplace culture.

DOL Announces Final Overtime Rule Increasing Salary Levels for White-collar Employees

On April 23, 2024, the U.S. Department of Labor (DOL) [announced](#) a final rule to amend current requirements employees in white-collar occupations must satisfy to qualify for an overtime exemption under the Fair Labor Standards Act (FLSA). The [final rule](#) will take effect on July 1, 2024.

Increased Salary Level

The FLSA white-collar exemptions apply to individuals in executive, administrative and professional (EAP) occupations, and some working outside sales and computer-related jobs. Some highly compensated employees (HCEs) may also qualify for the FLSA white-collar overtime exemption.

To qualify for this exemption, white-collar employees must satisfy the standard salary level test, among other criteria. This salary level is a wage threshold that white-collar employees must receive to qualify for the exemption.

Starting July 1, 2024, the DOL's final rule increases the salary level from:

- \$684 to \$844 per week (\$35,568 to \$43,888 per year) for EAP employees; and
- \$107,432 to \$132,964 per year for HCEs.

On Jan. 1, 2025, the salary level will then increase from:

- \$844 to \$1,128 per week (\$43,888 to \$58,656 per year) for EAP employees; and
- \$132,964 to \$151,164 per year for HCEs.

Automatic Updates

The DOL's final rule also includes mechanisms allowing the agency to automatically update the white-collar salary level thresholds without having to rely on the rulemaking process. Effective July 1, 2027, and every three years thereafter, the DOL will increase the standard salary level. The agency will apply up-to-date wage data to determine new salary levels.

Impact on Employers

According to the DOL, updating the salary level test will help ensure that the FLSA's intended overtime protections are fully implemented. Employers should become familiar with the final rule and evaluate what actions they may need to take to comply with its requirements. The following sections highlight steps that employers may take in response to the final overtime rule.

Identify Affected Employees

Employers should review payroll data to identify which employees will be affected by the new overtime rule. Employees already classified as nonexempt from overtime under the FLSA will not be affected by the new overtime rule, regardless of their compensation.

Determine Treatment of Affected Employees

HCEs

To qualify for a white-collar exemption, HCEs are subject to a more relaxed duties test, which requires only that the employee's primary duty must be office or nonmanual work and the employee must customarily and regularly perform at least one of the bona fide exempt duties of an EAP employee. For HCEs who are currently classified as exempt but earn less than the annual compensation threshold under the final rule (\$132,964 as of July 1, 2024, and \$151,164 as of Jan. 1, 2025), employers should assess whether they may still qualify for an exemption under the more stringent duties test applied to other white-collar exemptions. If they cannot satisfy that duties test, employers must decide whether to raise their salaries to meet the new HCE compensation threshold or reclassify them as nonexempt employees once the new rule becomes effective.

All Other Affected Employees

After identifying any affected employees, employers need to take one of the following actions with respect to such employees as of the rule's effective date:

- Raise their salaries to satisfy the salary level test for an exempt classification; or
- Reclassify the employees as nonexempt from overtime.

Employers are not required to take the same approach for all affected employees. However, it is generally considered best practice to assign the same

classification to employees with the same job title and duties. Thus, employers may wish to make such determinations on a position-by-position basis rather than individually.

Track and Analyze Hours Worked

Under the FLSA, employers are required to track hours worked by nonexempt employees to calculate overtime (i.e., payment for hours worked more than 40 in a workweek). Employers may better prepare for the new rule by tracking and analyzing the hours worked by affected employees. This can help employers determine the potential cost of reclassification and influence an employer's decision to either reclassify affected employees as nonexempt or increase their salaries.

Review and Update Employer Policies

Overtime

Employers that want to limit the amount of overtime worked by reclassified employees should consider a policy of requiring overtime hours to be approved in advance and disciplining employees who violate such policy (employers are still required to pay for all overtime work even if not preapproved). However, employees who regularly work more than 40 hours per week as exempt employees may not be able to accomplish as much work if they are limited to working a maximum of 40 hours per week after reclassification.

Timekeeping

Under the new overtime rule, employers may consider how existing timekeeping practices will apply to any affected employees the employer reclassifies as exempt and whether any modifications are required.

Other Employee Policies

Employers may also consider reviewing existing policies that differentiate between exempt and nonexempt workers and consider potential implications for reclassified employees.

Develop Internal Communications

Employers that choose to reclassify affected employees should communicate the change with them before it takes effect. Some employees could view the reclassification to nonexempt as a demotion, so employers may want to reassure them that the change has no effect on their status and emphasize the positive aspects of reclassification, such as overtime eligibility.

Prepare Employee and Manager Training

Employees who are reclassified may be unfamiliar with timekeeping and other practices applicable to only nonexempt employees. Therefore, in addition to communicating the change, employers may consider training reclassified employees on timekeeping, hours scheduling, overtime approval, meal and rest breaks, and any other policies applicable only to nonexempt employees prior to the effective date of their reclassification. Managers of the reclassified employees may need additional training to understand their obligations for such employees, such as approving or denying overtime and ensuring hours are accurately tracked and reported.

Review Applicable State and Local Overtime Laws

Some employers may already be subject to state or local laws that impose a higher salary threshold to qualify for an overtime exemption. Therefore, employers should continue to evaluate proper employee classifications using applicable state and local criteria as well as federal criteria. Additionally, certain state and local laws, including those regarding meal and rest breaks, may only apply to nonexempt employees. Employers that reclassify employees as nonexempt should determine whether any such state or local wage and hour laws may apply to the reclassified employees and, if so, should inform the employees of these additional rights and benefits.

Next Steps for Employers

While employers may take steps now to prepare for the final rule, they may want to wait to implement any concrete changes before it takes effect. As noted, the final rule is expected to face legal challenges. Accordingly, employers should watch for updates and prepare for potential uncertainty following the final rule's publication.



WORKERS COMPENSATION

Non Renewed?
High Premiums?
State Fund?

(212) 390-8772
info@toughcomp.com

TOUGHCOMP
BEFORE THE LAST RESORT™

www.toughcomp.com