



Robert L. Barchi, President

May 6, 2016

Mr. Howard Shelanski  
Office of Information and Regulatory Affairs  
The Office of Management and Budget  
725 17th Street, NW  
Washington, DC 20503

Dear Mr. Shelanski:

Rutgers, The State University of New Jersey, is a leading national research university and the state of New Jersey's preeminent, comprehensive public institution of higher education. More than 67,000 students and 22,000 faculty and staff learn, work, and serve the public at Rutgers. I am writing today to voice my concern that the proposed changes to the Fair Labor Standards Act (FLSA) will have significant detrimental impacts on the university and its ability to carry out its mission of teaching, research, and outreach. I am urging you to reconsider the proposed changes to FLSA, and to consider changes that would address the concerns raised in the comments below.

The proposed changes will more than double the existing annual salary threshold for exempt status for most employees, from \$23,660 to \$50,440. The resulting increase in costs to public colleges and universities will put substantial pressure on tuition, will have an impact on the quality and availability of educational services, will limit higher education access and affordability, and will create financial hardship for all institutions.

State universities have the responsibility to provide quality and affordable higher education to the citizens of their states. The costs associated with the changes in FLSA rules will need to be passed along to students who are already struggling to afford a degree. Implementation of the proposed FLSA changes may also result in the elimination of positions, which, in turn, will reduce employment and diminish the quality and levels of service offered to students across the university.

The proposed rule will have an impact on many positions critical to our academic, research, and outreach missions. Nearly 1,000 Rutgers employees, in areas such as student life, development, administration, and academic affairs, have salaries below the proposed threshold. Financial aid counselors, residence life staff members, librarians, recruiters and admissions counselors, food service managers, coaches, and agricultural extension services will all be affected. The estimated annual cost to Rutgers of this aspect of the proposed changes is \$9.3 million.

The effects of the proposed changes will be particularly acute for the research enterprise. Rutgers employs more than 400 research associates who are paid less than the proposed minimum salary threshold. The most significant impact will be on post-doctoral associates, who are trainees continuing their education while contributing to research and innovation. These researcher-trainees often staff labs on evenings and weekends, as do their faculty mentors. If these researchers are covered under the

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proposed rule, the university will be forced to restrict their hours, at substantial cost to their research and their education; increase salaries to meet the new threshold, functionally reducing even further the limited funds to conduct important research available from grants from NIH and other agencies; or reclassify them as overtime-eligible non-exempt employees. The estimated annual cost to increase all post-doctoral trainees to the new threshold is \$2.68 million, and the estimated cost of overtime for the same population exceeds \$5 million. These changes are likely to force a reduction in the number of trainees, adding to the innovation deficit created by sequestration and other federal research funding cuts. With declining state funding, and our continued reliance on post-doctoral trainees to conduct critical research, these changes will have a harmful effect on the Rutgers research engine and on innovation at the university and at the countless businesses that rely on research universities like Rutgers to fuel their growth and development.

In the broadest terms, while hourly pay and non-exempt status are appropriate for certain jobs, they are not appropriate for all jobs. Teaching positions are rightly exempt from the proposed overtime rule, but most workers on college campuses are not teachers. The magnitude of the proposed changes will require reclassification of employees in traditional white-collar jobs involving professional autonomy that are appropriately well suited for exempt status. Rutgers University supports the inclusion of language proposed by the Association of Public and Land Grant Universities that expands the teaching exemption to those who engage in “other professional activities integral to the mission of an educational establishment,” and those “conducting scientific or other professional research under the auspices of the institution, including research conducted at a graduate post-doctoral or faculty level; providing professional guidance and support to students that is ancillary to student success in the pursuit of higher education; and extending a higher education establishment expertise to the benefit of the larger community with professional instruction, advice, and outreach, such as agricultural extension services.”

Rutgers supports a reasonable increase in the salary threshold. However, the proposed increase would be implemented in a far too aggressive timeframe, especially since university budgets are already developed and approved for the upcoming academic year. Instead, we believe that a phased approach to the salary threshold increase will mitigate the immediate budgetary effects, and will permit Rutgers to continue engaging in its nationally recognized teaching and research, while ensuring the affordability of higher education in New Jersey.

We respectfully ask that you consider the significant potential impacts of the proposed FLSA regulation, especially at a time when universities are working to hold down tuition costs and to make college more affordable for students and families. We are asking that you amend the proposed regulatory changes in a way that will mitigate the economic burden on higher education. Thank you for hearing these concerns and for helping to address them prior to promulgation of the final rule.

Sincerely,



Robert Barchi