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**Kathy Cooper**

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**From:** Mundy, Renee <MundyR@lackawanna.edu>  
**Sent:** Wednesday, July 18, 2018 1:56 PM  
**To:** IRRC  
**Subject:** Regulation #12-106, Overtime Eligibility Rules



Dear Independent Regulatory Review Commission,

My name is Renee Mundy. I am the Vice President for Human Resources at Lackawanna College. I am writing to express my deep concerns regarding the proposed regulation noted above, as it pertains to the salary threshold for exempt employees in Pennsylvania.

Similar to the recent failed attempt by the Federal government to more than double the current salary threshold, Lackawanna College believes the proposed change, as currently written, will do more harm than good to our institution, our employees and the students we serve. There are also several inconsistencies and inaccuracies in the proposal itself.

To begin, Question #10 on page 2 of the Regulatory Analysis Form, requires a stated reason for the proposal and the compelling public interest that justifies the regulation. The first reason provided is "*Aligning with the current federal regulations.*" While this may hold true for part of the proposed regulation, it creates disparity in others. Specifically, the Federal salary threshold remains at \$455/week, therefore increasing the State salary threshold to the limits proposed would have the opposite effect and create disparity between the two – which are *currently aligned*. While the attempt to spread out the increase over a three –year period is appreciated, the new salary threshold in Years 2 and 3 still far exceed our institution's ability to absorb such an increase without cutting services, reducing staff or raising tuition. This in turn will limit the ability of many students in our community to further their education.

Based on current staffing and compensation levels, I estimate a total three-year impact well over \$600,000 (excluding payroll taxes, pension and other benefit related cost increases), should this proposed change take effect.

- Year 2 impact to our current wage expense line in excess of \$260,000
- Year 3 impact would result in an additional increase just under \$400,000

In responding to Question #11, Labor & Industry (L&I) technically left it unanswered. The answer is clearly yes, and I respectfully disagree that mirroring the "intention" of a failed proposal at the federal level is a compelling reason that demands stronger regulations.

In answering Question #12, New York is cited as a comparison, purportedly in support of L&I's proposal. However, New York has been steadily increasing its minimum wage over the past several years. Its' minimum wage is currently \$13.00/hour for most employers, thereby raising wages at all levels of an organization over a longer time span, greatly reducing the impact on such a high threshold. That said, employees in New York are still facing negative consequences such as reduced hours and job eliminations as businesses are forced to find ways to remain viable.

I also respectfully disagree with the impact on Pennsylvania's ability to compete being categorized as "small."

- While the impact of the proposed Year 1 salary threshold will be small, the increases in Year 2 (\$16,172 from current threshold) and Year 3 (\$24,232 from current threshold), will be significant for us (*refer to anticipated salary impact above*). I also challenge the assertion that there are employers who do not have any salaried employees who earn more than the current federal EAP salary threshold but less than the threshold proposed in those years. I am curious to know more about those organizations, such as the industry, geography and employee size of those businesses/organizations.

- The suggested adjustments to minimize the impact are not viable options for us. We simply cannot increase costs without limiting the services we provide and/or increasing tuition, thereby eliminating the opportunity for many of our students to attend College.
- As an institution of higher education, and one that offers online classes and degrees, we compete for students on a national level.

In responding to Question 17, L&I has not adequately identified the impact the proposed regulation will have on businesses. The answer only addresses the benefits to individuals. I believe this response needs to be expanded.

We are sympathetic to the good intentions of the policymakers who drafted this rule. However, it is my opinion that the approach of drastically increasing the threshold in a short timeframe is simply not sensible. The attempt to provide a phase-in period is very much appreciated, however, more than doubling the threshold in three years, after 40 years of no action on the part of the State to address this issue, is simply not reasonable or fair.

To that point, we are not asking the government to abandon its well-intentioned initiative to update our State's overtime rules. However, we are asking it to take a close look at the impact of the rule before moving forward.

Thank you for the opportunity to comment on the proposed amendments.

Sincerely,

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