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Office of the President

MISERICORDIA  
UNIVERSITY

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Independent Regulatory  
Review Commission

July 19, 2018

Mr. Bryan Smolock  
Director, Bureau of Labor Law Compliance  
Pennsylvania Department of Labor and Industry  
651 Boas Street  
Harrisburg, PA 17121

**RE: PA Department of Labor and Industry Regulation #12-106, amendments to 34 Pa. Code Chapter 231 with respect to Overtime Pay**

Dear Mr. Smolock:

I am writing to you to express concern over the significant impact on our university of the proposed Pennsylvania Department of Labor and Industry regulations affecting salaried workers in Pennsylvania who are exempt from receiving overtime pay.

At our university, expressly stated in our mission is “respect for all persons.” That philosophy includes fair and equitable compensation for our employees’ professional contributions which support the success of our students, our university as a whole, and the Commonwealth of Pennsylvania. However, the proposed regulations would place an undue financial and administrative burden on colleges and universities across Pennsylvania, leading to a decrease in student services and an increase in operating costs and tuition.

First, the regulations propose an annual salary measure of \$47,892, with those falling below that being eligible for overtime compensation under the new standard. This is a significant increase over the current federal standard of \$23,600 impacting approximately 70 employees on our campus alone. Even with new procedures in place to reasonably regulate overtime, we estimate the cost to our university to be at least \$60,000 each year in increased salary expenses or .2% of our total payroll – double the percentage referenced in the Department of Labor’s recent statements. The payroll expenses could grow dramatically if we find that that important services or work processes are being inordinately reduced or restricted.

We have many salaried, overtime-exempt personnel, especially in student services, athletics, and similar areas that have a direct impact on student success and well-being. Since universities are 24-hour, seven-day-a-week operations for a large portion of the year, work schedules for these professionals vary greatly and include travel with students and other duties that are not accommodated well by shift work or a standard “9 to 5” work day. These employees enjoy flexible schedules and interact with students consistently in ways that would be severely restricted and confused by the new overtime rules. The contentious question, “what exactly constitutes an hour

"worked?" will trouble supervisors and employees alike during extended service learning trips, athletic events, conference attendance and travel. Even someone who works in the business office or registrar's office who might normally answer an urgent student or parent question after hours via email or on campus over the weekend would be challenged to think about the overtime rules prior to engaging in this common, normal interaction.

Rather than increasing morale, job satisfaction and compensation for the employees who fall into this classification, our experience in discussing the proposed federal regulations in 2016 resulted in the opposite. Despite campus-wide communications efforts and extensive meetings with employees, nearly every impacted person expressed concerns about their ability to successfully carry out their duties, even with reasonable measures to monitor and regulate overtime. Dozens were frustrated and upset about the government imposed mandate to switch them from salaried employees to hourly employees.

Mid-level professionals in higher education will now be limited in such things as travel, training and professional development as to not incur extreme salary and overtime costs in order to compensate them for activities they eagerly and willingly pursued before.

Private colleges and universities are a great asset to our Commonwealth. We retain and graduate students exceedingly well and add value to the lives of approximately 290,000 students each year in our state. Many, like Misericordia University, work diligently to keep expenses low but maintain rich, high quality services for our students. This proposed regulation places upward pressure on our costs, which places upward pressure on our tuition and other fees in a time where students are increasingly sensitive to affordability. The regulations also compromise our ability to compete with universities in other states not bound by these new standards.

I encourage you and others involved in the process to carefully consider the negative impact these rules would have on our industry, our employees and the people we serve. Please discard the new proposed regulations in favor of rules better suited to the ongoing success of Pennsylvania's higher education sector and its employees.

Regards,



Thomas J. Botzman, Ph.D.  
President

Cc: Independent Regulatory Review Commission;  
Rep. Rob Kauffman;  
Senator Kim Ward

TJB/jcr