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UNIVERSITY

August 20, 2018

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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 & Industry Regulation #12-106, amendments to 34 Pa. Code Chapter 231 with respect to Overtime Pay.**

Dear Mr. Smolock:

On behalf of Susquehanna University, thank you for the opportunity to comment on proposed regulations submitted by the Pennsylvania Department of Labor & Industry (L&I). We understand the need for periodic review of overtime rules to ensure the law remains relevant for today's workforce, however, the proposed revisions present serious challenges to Pennsylvania's institutions of higher education.

The proposed regulations present a standard that is more stringent than federal standards. The regulations propose an annual salary measure of \$47,892, more than double the current federal standard of \$23,660. Institutions of higher education are competing nationally for student enrollment and retention. This provision will unfairly impact Pennsylvania's colleges and universities as we compete with sister institutions based in states that continue to follow federal overtime rules.

While some adjustment to annual salary benchmarks may be appropriate, the sudden doubling of such a standard is disruptive to employers and employees alike. We propose that any wage standard adjustments should be measured and provide employers with a sufficient period of time to gradually meet those new benchmarks. The current proposal provides a narrow implementation window, which will negatively impact our institution.

The L&I proposed annual salary measure tracks closely with the proposed overtime rules presented by the United States Department of Labor in 2016. However, these rules have been stayed by a federal judge and later rescinded by the current administration.

In 2016, Susquehanna University reviewed the impact of the USDOL proposed changes. If we increased all professional positions to the new minimum salary, our costs analysis predicted an increase of over \$550,000 plus an additional \$200,000 in salary compression equity adjustments. As we would be unable to absorb such a large and quick increase in administrative and labor costs, we will likely do a combination of both reclassification and increase in salaries to meet the new threshold.

Colleges and universities have a large number of employees that work varied schedules. Coaches, admissions officers, advancement professionals, and student affairs workers are a few examples of careers in academia that have varied and flexible schedules. For these workers, there are periods of intense activity, yet also times when responsibilities fit easily within part-time hours. Travel is essential to many of these positions. The proposed amendments to the overtime provisions would eliminate flexible work schedules for many employees in higher education.

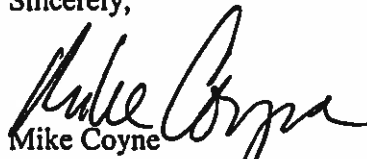
Susquehanna would be forced to move impacted employees to hourly status. The L&I proposal would convert professional, salaried jobs into hourly positions overnight, resulting in limited flexibility for workers and increased costs for colleges, universities, and other employers.

While hourly pay is appropriate for certain jobs, it is not appropriate for all jobs. The employees reclassified as hourly will face increased restrictions on the hours they can work, which will limit opportunities for advancement and training, including attending professional conferences and travel. Many employees will also face new restrictions on their ability to work remotely and use technology outside of established work hours. The regulation may require new and amended policies that restrict travel and working from home. While some of employees may see modest increases in income, most will not.

The proposed 2016 FLSA regulations provided certain protections that extended the administrative exemption to employees whose primary duty is performing functions directly related to academic administration at educational institutions and also those with a primary duty of teaching. Based on our analysis of the L&I proposed amendment, we fear these provisions were overlooked by L&I while drafting the revision. We urge L&I to closely examine the implications of the proposed regulation with regard to teaching and administrative functions at Pennsylvania's colleges and universities.

We are sympathetic to the good intentions of L&I in drafting the amendment, but we remain concerned by the negative economic impact resulting in the sudden and dramatic increase in the annual wage standard. The L&I proposed amendments to 34 Pa. Code Chapter 231 regarding overtime pay will negatively impact our institution, our employees and the students we serve.

Sincerely,



Mike Coyne

Co-Chief Operating Officer & Vice President for Finance and Administration

Cc: Independent Regulatory Review Commission;  
The Honorable John Gordner;  
The Honorable Kim Ward;  
The Honorable Lynda Schlegel Culver;  
The Honorable Rob Kauffman;  
The Honorable Fred Keller