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Overtime Rule Divides Nonprofit Leaders

By Rebecca Koenig



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At NeighborWorks Northeastern Pennsylvania, five employees may be affected by the new overtime rule. The nonprofit will likely cap hours, change some jobs from salaried to hourly, and increase some salaries so they are exempt from overtime pay.

A new federal rule expanding overtime-pay benefits has sparked a national dialogue about compensation for nonprofit employees.

Some charity leaders have vocally opposed the rule, which will expand benefits to full-time, salaried employees who make up to \$47,476 a year, calling it unnecessary for people who work at mission-driven jobs. Labor laws were not created to protect charity workers but business employees "exploited by the corporations they work for," says Andre Delattre, executive director at U.S. PIRG, a consumer-advocacy nonprofit.

Others argue that nonprofits can have "exploitative" labor practices, too.

"Organizations whose entire business model is dependent on uncompensated overtime of low-wage workers, they need to re-evaluate their business model," says Jon Pratt, executive director of the Minnesota Council of Nonprofits.

Yet even those in favor of the new rule say they have mixed feelings because they're worried about how it will affect nonprofit budgets, jobs, and service delivery.

Nonprofit Leaders Divided

The new regulation, which will go into effect December 1, is expected to apply to an estimated 4.2 million workers, including many at nonprofits. Until then, the salary threshold for benefits stands at \$23,660.

Mr. Delattre at U.S. PIRG has emerged as one of the most outspoken critics of how the rule applies to nonprofits. Nonprofit jobs are fundamentally different than for-profit jobs, he contends. As such, charities' employees don't need the same protections as workers in the for-profit world, he says, and the new rule will stymie his nonprofit's efforts to combat corporate abuses.

Other critics of the rule say nonprofit employees accept lower salaries than those offered by for-profit companies because they're happy to support meaningful missions.

"Our employees choose this line of work because they spend each day helping others to reach their fullest potential. And at the end of the day, they head home knowing that their work has made a difference," wrote Godfrey Wood, executive director of Habitat for Humanity Greater Portland, in a *Portland Press Herald* opinion piece.

That argument doesn't sit well with Andy Schmidt, a lawyer who co-founded Towards Justice, an organization that provides legal services to low-wage workers.

"If you really think people are so dedicated that they'd volunteer their time, create a mechanism that they'd donate the money back," he says.

He notes that nonprofits that don't want to pay employees more can simply limit their working hours to 40 a week.

"I think what this is really about is commoditizing time," he says. "When workers keep track of their time and can use it to negotiate with employers, they have more power, and the managers, even in the nonprofit sector that's supposed to be worried about income inequality, are terrified of this."

And even as Mr. Delattre worries that the new rule will hurt the mission of U.S. PIRG, others cite the organization — which pays recent college graduates starting salaries of about \$25,500 for grass-roots organizing — as an example of why it's needed.

"If you think the only way you can accomplish your mission is overworking people and abusing them, you probably should get into a different line of business," says Ross Eisenbrey, vice president of the Economic Policy Institute, which favors the new rule.

U.S. PIRG's model of "using uncompensated overtime to conduct their work" is "more of a tradition" than a requirement, Mr. Pratt says.

"Why do they need to expend their funds in that way?" he says. "If you look at their budget, the income they receive is not restricted. They have a lot of latitude in how they expend their funds."

Getting Creative

Many charity leaders morally support the new rule but have "operational anxiety" about how to comply, according to recent survey conducted by the National Council of Nonprofits. It revealed widespread ambivalence about the measure among nearly 1,100 respondents.

"Within our network, there is an understanding of the value of this for income equity and ensuring that the work force that does some of the toughest jobs in the country has fair pay for doing that work," says Marlo Nash, senior vice president for public policy and mobilization at the Alliance for Strong Families and Communities, a nonprofit association. "What we're concerned about is that it leads to a reduction in services."

Indeed, when asked to pick three adjustments their nonprofits would most likely make to comply with the ruling, 33 percent of survey respondents said they would reduce services to the public. But reducing services is not an option for those nonprofits that have government contracts requiring them to offer a certain level of service.

"It would be very helpful if the federal government created a mechanism that fixes this nationwide and urges state and local governments to do the same," Ms. Nash says.

Some charities may simply cut staff; 34 percent of survey respondents said as much.

Still others are "going to need to be creative," says Jesse Ergott, president of NeighborWorks Northeastern Pennsylvania, which provides housing services.

Five of his organization's nine employees may be affected by the rule. The group will likely examine each position individually and comply using multiple strategies: capping hours for some salaried employees, changing other positions from salaried to hourly, and increasing some salaries so they are exempt from overtime pay.

Healthy Adjustment

Not everyone is cringing in response to overtime expansion. Some leaders welcome what they consider a push in the right direction. Nonprofits have the option to look at the rule "through a lens of fear," Mr. Ergott says, or as "an opportunity to make some changes that may benefit employees in a way that builds loyalty."

About 150 nonprofits signed a statement of support, organized by the Economic Policy Institute, calling the new rule "a great victory for working people."

"It is time to revisit the idea that working for the public good should somehow mean requiring the lowest-paid among us to support these efforts by working long hours, many of which are unpaid," the statement said.

Community-development nonprofit PathStone Corporation, which signed the statement, announced it will try to limit its employees to 40 hours a work.

"We really think this is going to be an opportunity to attract some millennial workers and some new people, and retaining folks," said Anne Babcock-Stiner, senior vice president for human resources, during a news conference.

It's time for the nonprofit world to make a "healthy adjustment to work rules," Mr. Pratt said: "We have no desire to be second-class employers."

Send an email to Rebecca Koenig.