October 19, 2023

Jessica Looman  
Principal Deputy Administrator  
Division of Regulations, Legislation, and Interpretation  
Wage and Hour Division  
U.S. Department of Labor  
Room S–3502, 200 Constitution Avenue, NW  
Washington, DC 20210

RE: Proposed Ruling by the Department of Labor on Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees

Dear Ms. Looman,

The National Postdoctoral Association (NPA) is a 501(c)(3) charitable and educational non-profit organization whose mission is to improve the postdoctoral experience by supporting a culture of inclusive connection. Founded in 2003, our membership is composed of more than 240 U.S. research institutions and 24,000 individual postdoctoral researchers (“postdocs”). Collectively, we represent the interests of the 70,000 postdocs training across the nation in science and research fields.

In August 2023, the DOL posted a Notice of Proposed Rulemaking (NPRM) to define the limits for exempt employees under the FLSA and increase the standard salary level and the highly compensated employee annual compensation threshold. The NPA supports the proposal to increase the level of eligibility for exempt employees to $55,068 and supports consistent and predictable increases to the Fair Labor Standards Act (FLSA) to keep up with the economy, allowing our member institutions to prepare for such increases in the future.

Postdocs have attained their Ph.D. but remain in a mentored position, under more senior researchers, to specialize in a certain field of research before embarking on their independent careers. The FLSA has historically intended to protect positions, such as postdocs, who work more than 40 hrs per week from being paid unfairly. Without these protections, highly skilled and
educated postdocs could be cornered into unfair wages as a sacrifice for achieving their academic career goals – risking their financial security and livelihood.

The proposed rule would provide great financial relief to the thousands of postdocs who currently earn less than the recommended minimum of $55,068. Currently, postdocs face financial instability due to increasing living costs, especially in large cities where research is often conducted. According to a study published by the NPA, 94.8% of postdocs are negatively impacted by their salary. Financial concerns and inequities discourage postdocs from pursuing academic research, threatening our worldwide competitiveness.

The NPA has consistently advocated for postdocs to receive a sustainable fair remuneration (translated into higher salaries) that is proportional to their level of education. In 2015, the NPA issued a statement addressing proposed changes to the overtime regulations in the FLSA and reiterating a standing recommendation to increase exempt levels to at least $50,000. In later statements, we recognized the clarification provided by the Department of Labor (DOL) about the eligibility of postdocs for overtime pay and recommended against differences in the application of FLSA rules based on discipline or non-research activities (e.g., teaching) in the postdoc population.

Last November, a working group of the National Institutes of Health reported the difficulties in academia to fill postdoc positions. The group showed data reporting the number of biomedical graduate students steadily increased between years 2000 and 2020, while the number of postdocs remained flat. The data suggests that fewer PhD holders are pursuing postdoc positions, likely due in part to financial concerns.

Finally, the NPA would like to express concern on the potential effects of implementation costs on the postdoctoral community. The ruling leaves it to the discretion of employers to determine whether employees remain salaried or considered for hourly rate, which could affect postdoc benefits including health coverage and paid vacation time. The NPA opposes any reductions in benefits or other employment contributions in an effort to “recuperate” funds allocated towards increased salaries as a consequence of this ruling, and we ask for a clarification about this topic.

We appreciate the opportunity to submit comments on this matter and previous actions from the agency that have benefited the postdoctoral community.

Sincerely,

[Signature]

Thomas P. Kimbis, J.D.
Executive Director & Chief Executive Officer

The national voice of the postdoctoral community
www.nationalpostdoc.org