

Fifth Circuit Affirms DOL's Right to Set Salary Minimum for White Collar Exemptions

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In its September 11, 2024 opinion in *Mayfield v. Department of Labor*, the United States Court of Appeals for the Fifth Circuit held that the U.S. Department of Labor's explicitly delegated authority to "define" and "delimit" the terms of the executive, administrative, and professional (EAP) exemptions includes the power to set a minimum salary for exemption.

In 2019, DOL issued a [final rule](#) raising the minimum salary required to qualify for most EAP exemptions from \$455 per week to \$684 per week. In 2024, DOL issued a [final rule](#) raising the minimum salary to \$844 effective July 1, 2024 and to \$1,128 effective January 1, 2025.

In *Mayfield*, the plaintiff, a small business owner, challenged the 2019 rule, arguing that DOL lacks, and has always lacked, the authority to define the EAP exemptions in terms of salary level (as opposed to by job duties). The district court granted DOL's motion for summary judgment, and Mayfield appealed.

After noting that its own precedent did not answer the question before it and that the "major questions" doctrine did not apply, the Court turned its eyes to the Supreme Court's July 2024 opinion in [Loper Bright Enterprises v. Raimondo](#) and noted that "where, as here, Congress has clearly delegated discretionary authority to an agency, we discharge our duty by 'independently interpret[ing] the statute and effectuat[ing] the will of Congress subject to constitutional limits.'" Because of Congress's "uncontroverted, explicit delegation of authority" to DOL to "define" and "delimit" the EAP exemptions, the question for the Court is whether the 2019 rule is within the outer boundaries of that delegation.

Mayfield's argument, at its core, is that any definition of the EAP exemptions based on a characteristic other than job duties would exceed DOL's delegated authority. The Court disagreed, noting that "the terms in the EAP [e]xemption[s], particularly 'executive,' connote a particular status or level for which salary may be a reasonable proxy." The Court also noted that the EAP exemptions are frequently referred to as the "white collar" exemptions, a characterization that assumes a certain level of salary.

The Court noted that DOL's authority was not unbounded:

Using salary as a proxy for EAP status is a permissible choice because ... the link between the job duties identified and salary is strong. That does not mean, however, that use of a proxy characteristic will always be a permissible exercise of the power to define and delimit. If the proxy characteristic frequently yields different results than the characteristic Congress initially chose, then use of the proxy is not so much defining and delimiting the original statutory terms as replacing them. That is not the case here.

The Court's language leaves open the question of whether an increase in the minimum salary for exemption that is more drastic than that in the 2019 rule—such as the increase to \$1,128 in 2025—is within or outside permissible bounds of “defining” and “delimiting.” That question will have to be answered another day.

In conclusion, the Court noted that DOL has consistently issued minimum salary rules for more than 80 years; that it began doing so immediately after the FLSA was passed in 1938; that Congress has amended the FLSA numerous times without modifying, foreclosing, or otherwise questioning DOL's authority to set a minimum salary for exemption (suggesting “legislative acquiescence”); and that four other federal courts of appeal have recognized the DOL's authority to promulgate minimum salary rules (albeit only once in the last 77 years).

Mayfield was viewed by practitioners as the primary “live” battleground for the issue of whether DOL has authority to set a minimum salary level for the EAP exemptions. (In June, a Texas district court [enjoined the 2024 minimum salary rule](#), but only as to the employer in that case.) The broader battle will now have to be taken up on appeal to the Supreme Court or in another case.

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