

September 25, 2017

Melissa Smith
Director
Division of Regulations, Legislation, and Interpretation
Wage and Hour Division
U.S. Department of Labor
Frances Perkins Building
200 Constitution Avenue, NW
Washington, DC 20210

Via Electronic Submission: Regulatory Information Number (RIN) 1235-AA20

Re: Request for Information; Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees, 82 Fed. Reg. 34616

Dear Ms. Smith:

The League of American Orchestras (the League) submits the following comments in response to the U.S. Department of Labor (DOL) Request for Information (RFI) published on July 26, 2017.

The League of American Orchestras leads and supports America's orchestras and the vitality of the music they perform. Founded in 1942 and chartered by Congress in 1962, the League links a national network of thousands of instrumentalists, conductors, managers, board members, volunteers, and business partners. Its diverse membership of nonprofit orchestras across North America ranges from world-renowned symphonies to community groups, from summer festivals to student and youth ensembles. Orchestras unite people through creativity and artistry, fuel local economies and civic vitality, and educate young people and adults – all with the support of private contributions, volunteers, community partners, and a workforce of full- and part-time employees.

The DOL invites comments on the revisions to overtime requirements, which orchestras, among other nonprofits across the country, were preparing to implement on December 1, 2016. As the national service organization serving the more than 1,600 orchestras across the United States who employ musicians, administrators, and staff, the League closely monitored the proposed policy changes in 2016. In direct communication with the Department of Labor and in partnership with the National Council of Nonprofits and Independent Sector, the

League provided resources to help orchestras understand what the proposed changes would mean for their operations as 501(c)(3) charitable organizations.

Nonprofit orchestras exist in all 50 states, serving virtually every community, with annual budgets ranging from less than \$30,000 to more than \$100 million. Two thirds of all orchestras have budgets under \$300,000. Given the diverse geography and budget sizes among orchestras, the League will encourage our members to directly participate in public comment periods that will accompany any specific proposed revisions to overtime regulations. As the DOL considers formulating new proposed regulations, we call the Department's attention to [comments](#) filed by the National Council of Nonprofits on September 15, 2017, related to how overtime rules impact both the employment considerations and the mission orientation of charitable nonprofits throughout the country.

In particular, and in response to feedback from our membership on this topic in 2016, we endorse the National Council of Nonprofits' following two recommendations:

- *Recognize that how (the DOL) transitions a new rule is as important as what the new rule says – organizations need reasonable time to prepare for any announced changes.* When attempting to adapt to the new overtime requirements in 2016, our member orchestras reported that the brief timeframe to absorb new procedures and substantial increases in cost proved exceedingly burdensome, and that a phased-in transition would have provided important relief.
- *Prioritize simplicity under the FLSA in order to promote compliance with fair labor standards, as the law is already too confusing for many organizations and their employees.* We ask that as further regulatory action is planned, the Department carefully consider how implementation of new and current regulations impact nonprofits as employers and community service providers, and ultimately tailor guidance for compliance that clearly addresses the needs of nonprofit organizations.

Thank you for this opportunity to provide an initial response to the Department of Labor's Request for Information. The League of American Orchestras looks forward to continuing to engage our members on this topic as further specific regulatory action take place.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jesse Rosen', with a stylized, flowing script.

Jesse Rosen
President & CEO