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April 29, 2016

Mr. Howard Shelanski  
Administrator, Office of Information and Regulatory Affairs  
The Office of Management and Budget  
725 17th Street, NW  
Washington, DC 20503

RE: RIN 1235-AA11

Dear Mr. Shelanski,

In the coming weeks, the U.S. Department of Labor (DoL) is expected to overhaul federal overtime rules in a manner that Ohio's independent non-profit higher education sector fears will do more harm than good to our institutions, our employees, and the students we serve. We, the undersigned presidents of nonprofit colleges and universities in Ohio, write to share our concerns about the effects of the proposal, and ask that implementation be delayed to undertake a comprehensive analysis of its effects on small businesses and nonprofit colleges and universities.

DoL's proposed 98-page rule would more than double the minimum salary required for white collar employees to qualify as exempt from federally mandated overtime pay (a 113% increase, from \$23,660 to \$50,440) and then automatically increase that salary threshold every year. Essentially, it would turn millions of professional, salaried jobs into hourly positions overnight, resulting in limited flexibility for workers and increased costs for colleges, universities, other nonprofits, and public-sector employers that operate on fixed budgets.

We agree with the federal government that overtime rules need to be updated to ensure the law remains relevant for today's workforce. However, AICUO and its institutions are deeply concerned about the unintended consequences of a massive overnight increase and such a narrow implementation window, which will impose serious hardships on our institutions, employees, and students.

Like many sectors, independent colleges and universities will immediately need to reclassify large numbers of employees from salaried to hourly. While hourly pay is appropriate for certain jobs, it is not appropriate for all jobs, and the new requirements will raise several important issues:

- 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.
- Many employees will face new restrictions on their ability to work remotely and use technology outside of set work hours. While some of them may see modest increases in income, most will not. Colleges, particularly smaller colleges, are able to retain employees in part because of their ability to craft positions that reflect the individual preferences

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and family needs of employees, including flexible work locations and hours. The proposal will destroy those opportunities for many employees, as institutions seek to hold employee pay in line with budget requirements.

- Non-cash compensation is an important benefit for many employees, meaning that their effective compensation exceeds the proposed overtime threshold but will not for purposes of DoL reclassification. Many independent colleges and universities offer tuition remission and discounts for staff and family members. The value of this benefit is substantial, and in some cases, encourages employees to take positions that are below their market-compensation value because the tuition benefit creates a package that exceeds their market-compensation value. The proposal does not incorporate such personal decisions into the reclassification calculation.
- Similarly, many colleges and universities provide health insurance benefits that are greater than the norm in their communities. For similar reasons, employees take or stay in positions at colleges and universities to receive these benefits, with resultant lower cash compensation. The proposal does nothing to reflect this reality in determining who is reclassified and who is not.
- Colleges and universities have relatively little means of translating increased costs outside of the institution, as manufacturers and service providers can through prices. In short, institutions will be forced to limit hours, as described above, or pay more overtime without the means of gaining more revenue. President Obama has focused great effort on college affordability, but the changes in these rules can only fuel tuition increases, which Ohio independent colleges and universities have successfully limited for many years.
- Many of Ohio's non-profit institutions are located in rural communities and are the biggest employers in their regions. This rule, if implemented as proposed, could leave institutions with no choice but to reduce their workforce. In small towns with few other employment options, DoL's rule could lead to many towns becoming economically disadvantaged due to these employees being forced to move to find employment. The ancillary reductions in other community employment opportunities will echo in these locations. While some employees may earn more, they will still buy only so many cups of coffee, watch so many movies at the local one-screen cinema, and purchase so many tubes of toothpaste, failing to make up for the departure of other employees.

Specific areas of college operations are important for OMB to consider as well. Admission counselors are positions unique to colleges. Counselors, who are typically paid within the \$23,660 to \$50,440 range, have many hours of travel outside the typical work day in order to recruit potential students. The increase in cost of this position alone could be devastating to our institutions. Unlike public counterparts with large promotion budgets for television and billboards, and free earned-media in sports pages, these positions dominate the efforts of our institutions to recruit students. Institutions would be

unable to absorb such a large and quick increase in administrative and labor costs, which will result in either reduced staffing and programming or increases in prices for students – or both.

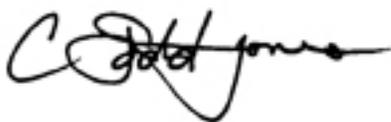
If implemented without changes to existing staff structures, numerous AICUO members will face over \$1 million in increased costs, which you certainly know based on individual letters from those institutions. Considering that most AICUO members have between 1,500 and 3,500 students, the change would necessitate increases in tuition of hundreds of dollars per student per year.

In short, this increase will mean tuition increases and fewer services for students. It will mean college will be unaffordable for more low and middle-income families, exactly the opposite of the work of this administration for the last eight years. We are sympathetic to the good intentions of the policy makers who drafted this rule, but their approach of immediately and drastically increasing the threshold is simply not sensible.

We are not asking the government to abandon its well-intentioned initiative to update our country's overtime rules. But we are asking it to take a close look at the impact of the rule before moving forward. This same request has been made by members of Congress and even the Obama administration's own Small Business Administration, which specifically urged DoL to take a closer look at the economic impact on small businesses, nonprofits and local governments before issuing this rule.

We respectfully ask for a delay in implementing the rule long enough for DoL to conduct a more comprehensive economic analysis on the impact of mandatory overtime expansion on small businesses and nonprofit colleges and universities. I also respectfully request an opportunity to meet with you to discuss specific expected impacts of the rule on member colleges and universities, and I would be pleased to travel to Washington, D.C., to meet with you.

Cordially,

A handwritten signature in black ink, appearing to read "C. Todd Jones". The signature is fluid and cursive, with the first name "C." and last name "Jones" clearly visible.

C. Todd Jones  
President and General Counsel  
Association of Independent Colleges and Universities of Ohio

Member President Signatories:

Robert C. Helmer, Ph.D., J.D., President, Baldwin Wallace University  
Thomas White, Ph.D., President, Cedarville University  
Grafton J. Nunes, President, Cleveland Institute of Art  
Dr. Daniel Curran, President, The University of Dayton  
Dr. Katherine Fell, President, The University of Findlay  
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Dr. David King, President, Malone University  
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