IMPLEMENTING OVERTIME REGULATIONS IN A NONPROFIT SETTING

by

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ABSTRACT

New overtime regulations go into effect in December 2016. Implementing these new regulations will take intention and effort. U.S. PIRG has expressed particular concern about this implementation process and the impact the overtime changes will have on nonprofits. This paper identifies a specific strategy for implementing the new overtime regulations and walks through the pros and cons of this process. U.S. PIRG has the opportunity to model a thorough employment audit and evaluation.
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December 13, 2016
To: Andre Delattre, Executive Director, U.S. PIRG (United States Public Interest Research Group)
From: Julia Dieperink
Subject: Nonprofit Overtime Implementation and the FLSA

**Action Forcing Event**

In May of 2016, the Department of Labor released new regulations about who should be earning overtime with specific guidance and clarification for nonprofits.¹ These regulations are in the Fair Labor Standards Act (FLSA) and increase the maximum salary threshold for who can earn overtime to $47,476 annually.² This expands the entire population of nonprofit workers who are eligible for overtime and it is estimated to impact 4.2 million workers.³

**Statement of the Problem**

U.S. PIRG has expressed concern with the new FLSA overtime regulations.⁴ Specifically, U.S. PIRG is concerned about the costs of implementing these changes while continuing to promote their mission.⁵ When the Department of Labor’s (DOL) new overtime regulations go into effect in December of 2016, the number of nonprofit employees that would be eligible for overtime is due to increase by almost four times to

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⁵ Ibid.
1.3 million people. This sizable increase in the number of employees eligible for overtime will impact all economic sectors, but will pose serious budgetary and implementation problems for nonprofits who had a significant number of employees that had, in the past, been exempted from DOL’s overtime rules. The new DOL regulations will impact nonprofits in two primary ways. One is the simple fact that increasing the number of employees eligible for overtime means that organizations will likely have to begin paying more in overtime. This impacts their budgets. The degree to which the FLSA impacts budgets vary as the American Action Forum estimates an additional $126.59 to $7,891.93 per every new overtime eligible employee per year. And two, the way that it impacts their budgets is potentially going to be more profound this year due to budget cycles and the way nonprofits get money, as the fiscal year may already be part of the way through and budgets already set.

Specifically, nonprofits are concerned about the impact these salary decisions will have on the ability of the organization to deliver on the mission. The general concern being that the more staff have to be paid, the less money can go towards service delivery. One Pennsylvania nonprofit executive director described the situation in nonprofits as, “We don't pay nearly as much as the government sector or the private sector. That is just one of the hallmarks of the nonprofit world. We try to get the most

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return out of the money we have available. That typically includes paying people less than they would be worth in the rest of the market.”

Another concrete aspect of the new FLSA regulations is related to where nonprofits are in their budgets cycles come December 1, 2016. Any nonprofit that works on government grants or contracts will be in the middle of those grant or contract cycles. Government grants and/or contracts make up roughly a third of the entire nonprofit sector’s revenue. As the grants/contracts have already been signed, nonprofits will have to be responsible for the additional and unexpected cost of staff until they can be renegotiated at a later date. This is potentially true for foundation grant income as well as the general life cycle of a nonprofit’s fiscal year, which is often based around program and not the calendar year.

The consequences to the changes in the FLSA requirements range from hour reductions and caps to staffing cuts to service cuts. These regulation changes impact nonprofits nationwide and the above consequences start at the individual level with staffing changes and could expand out to societal changes when the mission comes into

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11 “The Impact of New Overtime Rules on Government.”
13 “Statement on the Overtime Rule | U.S. PIRG.”
question. At the nonprofit level, the severity of these consequences are all determined by implementation strategy and priorities.

**History**

The Fair Labor Standards Act (FLSA) was first passed in 1938 with the goal of shortening workweeks. The FLSA is run out of the U.S. Department of Labor, specifically the Wages and Hours Division. According to some estimates, the initial passage of the FLSA impacted 700,000 workers. This may have increased by an additional 13 million workers as more of the regulations within the act went into effect.

The specific portion of the FLSA in question is the overtime pay provision. In Section 7, the FLSA mandates that employees covered under the FLSA (and who are nonexempt) earn time and a half of their regular rate for weeks where they work more than 40 hours a week. Despite the abundance of research on the effect, impact, and cost of the minimum wage (another key FLSA provision), overtime has had comparatively little study.

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18 Ibid
What we do know is that there have been some studies on how overtime pay was implemented and whether or not the worker felt any impact. From these we can extract how the employer was reacting, even if it was not specifically the intent of the study. One study, using data from 1985, lists out the ways in which employers might determine when and how to use overtime. These scenarios include seasonal demand/rush orders, when an employer is unwilling or unable to hire someone new, or when an employer builds overtime into the schedule.\(^\text{21}\) This same study goes on to say that a great number of employees calculate out the total cost of hiring additional staff and many determine it makes more sense to pay overtime to their existing employees rather than increase their staff size.\(^\text{22}\)

Whether or not employees ever actually see an increase in wages due to overtime pay depends a lot of the calculation the employer makes related to the above scenarios. In general, unionized workers have historically seen more overtime pay than nonunionized workers although the article that reports that is also quick to report that this could be due to the nature of the work more than anything else.\(^\text{23}\) All in all, there are two theoretical models for whether or not a person’s wages actually go up under the protection of overtime regulation 1) the fixed wage model says that the market sets the rate and wages won’t go up or 2) the fixed job model says there are a finite number of jobs so wages end up being flexible and can go up.\(^\text{24}\) The logical conclusion of this is that if you believe there is a fixed wage system, overtime laws will have little impact on employers but if


\(^{22}\) Ibid.


you believe there the system is based around fixed jobs, the employer will feel the impact of overtime laws.

The other portion of the historical implementation of overtime laws is compliance. How many organizations have historically followed the overtime regulations in the FLSA? One study based off of a 1977 data set found that a total of almost 16% of employees were not being paid the overtime premium (time and a half) guaranteed them in the FLSA.\textsuperscript{25} The paper that details this study also goes on to explain why, historically, not complying with the FLSA might be in the employer’s best interest and that is almost entirely due to the fact that whatever noncompliance fine was determined was almost definitely less than what the employer would have paid in overtime.\textsuperscript{26}

**Background**

The overtime requirements in the FLSA were last changed under President George W. Bush’s administration which established the maximum salary to receive overtime as $23,660/year before an employee becomes exempt.\textsuperscript{27} These changes were under Bush’s FairPay Initiative which also recategorized a number of job types that were previously eligible for overtime and made them exempt from overtime.\textsuperscript{28} Another part of this recategorization in 2004 was the switch to using job descriptions instead of job titles

\begin{itemize}
\item \textsuperscript{26} Ibid., 165.
\end{itemize}
to determine whether or not an employee was exempt or nonexempt, in addition to salary.\textsuperscript{29}

More recently, the issue of overtime has settled itself into our current partisan political landscape with Democrats wanting more employees to be eligible for overtime and the Republicans wanting to protect businesses from this additional expense. The new FLSA overtime regulations are being implemented under the Obama administration at the tail end of their tenure, which means the way that the debate breaks down is fairly predictable. Prior to the announcement of the regulations, several Democrats in Congress advocated for the salary threshold to be $69,000.\textsuperscript{30} This is obviously significantly higher than the resulting salary threshold of $47,476, which is what the regulations ended up capping the overtime eligibility at.

Many Republicans did actually agree that the standards needed to be adjusted and the salary threshold needed to be raised, their concern this time was that the increase that was set forth by the Department of Labor was too much too quickly.\textsuperscript{31} In March of 2016, the Protecting Workplace Advancement and Opportunity Act was introduced to try and block the new FLSA rules on overtime.\textsuperscript{32} As of May of 2016, the Protecting Workplace Advancement and Opportunity Act was still in the Senate Committee on Small Business and Entrepreneurship.\textsuperscript{33}

\textsuperscript{29} Ibid.
\textsuperscript{30} Dave Jamieson, “Democrats Urge Obama Not To Blow It On Major Pay Reform.”
\textsuperscript{32} Ibid.
Even today, there is still an outstanding issue about compliance with the FLSA regulations. One of the provisions in the implementation of the FLSA overtime regulations in the past has been the ability to file for backwages if an employee’s employer had not been complying, in 2008 there were around 200,000 individuals that had backwage complaints settled.34

In light of the new FLSA overtime regulations going into effect in December, an increasing number of resources have been released on how nonprofits, or really any organization, can be dealing with these changes. The Congressional Research Service produced an FAQ back in August of 2015 that, among other things, lists out some of the ways that organizations have to comply with the new rules:

“• pay overtime to newly covered EAP employees, if they work more than 40 hours in a workweek;
• increase the weekly pay for workers near the proposed threshold ($970 per week in 2016) to a level above that so that the EAP employees would become exempt and thus not eligible for overtime pay;
• reduce work hours of nonexempt (covered) employees to 40 or fewer so that overtime pay would not be triggered;
• hire additional workers to offset the reduction in hours from nonexempt employees;
• reduce base pay of nonexempt workers and maintain overtime hours so that base pay plus overtime pay would not exceed previous employer costs of base pay plus overtime.”35

This list provides helpful context when thinking through the actual implementation process of the new FLSA overtime rules.

Other players in the implementation of the new rules are some nonprofit groups. That National Council of Nonprofits has put out a report on the implementation of

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34 “What Is Overtime?”
overtime in nonprofits as well as guidelines and advice.\textsuperscript{36, 37} Other groups, mostly known for their resources, include the NonProfit Times and the Nonprofit Quarterly. They are providing several forms of implementation resources and facts sheets but do also seem to be throwing their hat in the ring by being openly critical of the nonprofits speaking out against the overtime rules.\textsuperscript{38, 39, 40}

U.S. PIRG has spoken out about the disappointment in the new ruling, but they are not the only nonprofit to do so.\textsuperscript{41} Some of the nonprofits speaking out are small local nonprofits, focused also primarily on the cost to implement these changes.\textsuperscript{42} However, it is not only small nonprofits that will feel the financial burden of the increased overtime threshold, many larger nonprofits have also spoken out. The American Red Cross, Habitat for Humanity, Operation Smile and the YMCA have all joined U.S. PIRG in their concerns about having to lay off staff and/or decrease services as a result of this new regulation.\textsuperscript{43, 44}

\textsuperscript{36} “New Report.”
\textsuperscript{37} “Breaking down Your Nonprofit’s Obligation to Pay Overtime under the New Federal Rules,” June 22, 2016.
\textsuperscript{39} “Nonprofit Reactions to New Overtime Rules Run the Gamut.”
\textsuperscript{41} “Statement on the Overtime Rule | U.S. PIRG.”
\textsuperscript{42} Allen Smith, “Proposed Overtime Rule Threatens Nonprofits’ Survival.”
Within U.S. PIRG there are 11 Director level positions that support the Executive Director. This is out of the 22 total staff available on their website. No one else at U.S. PIRG has commented publically on the new FLSA regulations, implying at least a tacit support for the official statement. This is further evidenced by the fact that most of the employees at the Director level have a similar professional background to one another and the Executive Director.

Policy Description

The National Council of Nonprofits suggests a few steps to take before the December implementation deadline. This policy proposal of an employment audit is taken and adapted from that list of suggestions. This suggestion is the outline of what U.S. PIRG should adapt as an internal policy to prevent the FLSA overtime guidelines from having too negative of an effect on the running of U.S. PIRG. This internal policy should be designed to be implemented on an annual or biannual basis to maintain accurate documentation and to prevent any sort of large shakeup from happening in the future.

The basic tenants of this policy are a thorough examination of how the system currently works and who of the U.S. PIRG employees would be impacted by the new FLSA ruling. This should include a fresh look at whether or not staff are correctly

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46 Ibid.
47 “Statement on the Overtime Rule | U.S. PIRG.”
48 “Staff | U.S. PIRG.”
50 Ibid.
classified as nonexempt or exempt.\textsuperscript{51} Since U.S. PIRG doesn’t have a dedicated human resources staff, which would be the logical partner in this, it is going to be important to include the Director level employees in this examination.\textsuperscript{52} This analysis will allow U.S. PIRG to get a real time feel of how much money is actually going to be spent implementing the new overtime regulations. How much money is being spent on overtime currently? Will the amount of overtime paid out increase under new regulation or decrease? How much of the staff is going to be recategorized as exempt or nonexempt? Other key components of this policy include analyzing benefits and bonuses, training on proper timekeeping, and the implementation good business practices about approval to work overtime and when it is appropriate.

In order to implement and run these changes effectively, it is likely that going to an outside expert would be required. Estimates for consultants range from $75 per hour to $250 per hour for an estimated 10-30 hours of work to 20% of the budget for the program in question.\textsuperscript{53, 54} Assuming the first scenario and an hourly rate of $162.50, the midpoint between $75 and $250, that cost of the consultant is $1,625 to $4,875. What this likely doesn’t include is any material that may need to be developed. Assuming the second scenario, the 2015 990 Form for U.S. PIRG on Charity Navigator has total salaries and other employee compensation at $431,840 which is down from $500,841 in the previous

\textsuperscript{51} Ibid.
year.\textsuperscript{55} 20\% of $431,840 means that consultant would cost around $86,368. Clearly $1,625 and $86,368 are an incredible range and in all likelihood the actual cost would probably fall more towards the middle than either of those extremes.

Somewhere in the process it is important to go through existing internal policies and procedures to make sure that none of them work counter to the new policy in place. Are there existing best practices for overtime work? Do different departments manage these processes differently? How will you reconcile these conflicting policies and procedures? This is why it is critical to get the buy-in of your staff and a consensus on what the goal is moving forward.

\textbf{Policy Analysis}

\textit{Advantages:}

The most obvious reason to implement this policy is that the FLSA overtime regulations will be going into law in December, at the moment that is a fact that there can’t be much done about.\textsuperscript{56} Given that there seems to be built in increases in the regulations, doing a larger overhaul of employment categories and salaries now could be a cost saver in the long run since policies would be put in place that would allow future analysis and change to happen more seamlessly and take up less staff time.\textsuperscript{57} Following the law is a fairly significant pro in terms of this policy proposal.

This advantage is more of a consequence of not implementing these changes and is the cost of violating the FLSA. The DOL reserves the right to enforce aspects of the


FLSA through a few different means: court action and/or administrative fines.\(^{58}\) While most of the penalties for not adhering to the provisions would be civil in nature, and reaching up to $1,100 per violation or repeated violation, there is also room for DOL to take larger criminal action against the employer violating any aspect of the FLSA.\(^{59}\) Additionally, the cost of hiring a lawyer is likely higher than that of hiring a consultant, at $150 to $500 per hour, and would also likely be longer in duration to research and litigate a case than to conduct an employment audit.\(^{60}\)

Outside of the monetary cost of getting involved in the legal process, there is larger and less tangible cost. Legal action can take anywhere from a few months to a few years and while that is going on, it can cause uncertainty within U.S. PIRG and outside of it in the bigger nonprofit world.\(^{61}\) Internally, U.S. PIRG will be focused on the legal case and not on the mission, which is one of the main reasons to be concerned about the new overtime regulations to begin with. Externally, the impact could breed more chaos for those organizations that have already implemented these changes and are now wandering if they shouldn’t have and for those that agreed with you and then may have to rush to implement the changes after the case is decided. All in all, it is likely that after all that time, effort, and money, U.S. PIRG would still have to implement the new overtime rules.

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\(^{59}\) Ibid.


In terms of the cost, it is difficult to see what the longer term cost of this policy is going to be. Neither one of the estimated cost scenarios mentioned include things like the cost of staff time or the opportunity cost of the other work the staff could be focused on. However, assuming a $10,000 to $30,000 cost does seem worth it to make sure that your organization is running efficiently, that your employees know how and when to use overtime, and that your organization doesn’t have to keep revisiting the same issues over and over again, which also has a cost in terms of staff time and morale. You won’t know how much change is going to be needed until someone comes in and takes a deeper dive into U.S. PIRG’s employment practices, particularly since almost all of the salaries listed in Glassdoor, while being far from official, are below the current overtime exemption threshold so there may not be as much work ahead as it currently seems.62 This is still important to have confirmation on, especially if it turns out that raising some salaries would be more cost effective than continuing to pay overtime for everyone.

In terms of morale, having an open process like this can help mitigate any anxiety your staff may be feeling about the changes in the regulation and whatever implementation U.S. PIRG goes through in order to comply.63 Helping employees through large organizational changes involve communication and making sure that the employees feel both as though they have been heard and as though they have a stake in making sure the changes are successful.64 By involving someone from every department, the Directors, this helps decentralize the process and at least gives the employees a

mechanism for being heard. This can be especially important as it could be hard to hear, as an employee, that the Executive Director of your organization is concerned about having to lay people off.  

Another advantage that your employees might feel is that even if you do end up having to increase the number of employees eligible for overtime, or start paying people higher salaries to avoid the unpredictability of overtime, there is increasing evidence that paying employees more can attract better qualified workers. Increasing the offered salary can negate other, less desirable factors like commuting distance and long hours, when offering the desired employee a position. While people may not want to work in the nonprofit sector to get rich and you, as an employer, may want employees that are mission-driven and not compensation-driven those two things are not necessarily mutually exclusive. Even in the nonprofit sector, having higher wages may help you hire and retain better or more qualified employees. With your average salary seeming to be between $20,000 and $30,000 a year, that places you right at the poverty line for a family in Washington, DC. With other reports claiming that an individual would need to be earning $108,092 per year to live comfortably and happily in DC, it is not hard to see

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65 “Statement on the Overtime Rule | U.S. PIRG.”
why even the most passionate people would think twice about accepting a job that paid $30,000 a year.\(^\text{70}\)

Once you’ve hired those new employees or started paying your existing employees more, you can look forward to increased productivity.\(^\text{71}\) Evidence across sectors indicates that once employees feel they are being paid “fairly” they become more productive and when they are being paid below that level, however it is determined, they become increasingly dissatisfied.\(^\text{72, 73}\) This increased productivity can help offset the added cost of their increased salary or overtime. Slowing employee attrition and turnover also increase productivity and decrease hiring and training costs. The longer a good employee stays with an organization, the more that employee can expand on their roles and the less you have to teach them how to do their job. Having higher wages can decrease employee attrition.\(^\text{74}\)

**Disadvantages:**

Much like the main pro for this policy proposal is fairly obvious, the main con is also fairly straightforward and it is cost. Several thousand dollars to do an evaluation is a fairly significant portion of the budget when overall expenses only barely reached

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\(^{71}\) Wolfers and PM, “Ten Reasons Workers Should Be Paid More.”


$1,000,000 in 2015.\textsuperscript{75} Whatever the reason or value, such an expense should not be discounted lightly. And as mentioned before, that cost does not take in to account the amount of time spent on this evaluation by U.S. PIRG staff is time not spent working on their subject matter and the mission at large. This is a specific and justified concern of U.S. PIRG.\textsuperscript{76}

One of the other main cons for this policy proposal is the uncertainty. While this may also apply to most courses of action, this type of evaluation may increase that uncertainty. Re-categorizing employees and changing salary levels can be done as intentionally as possible and with cost effectiveness in mind, but there is no guarantee that that the regulations or circumstances won’t change again and these adaptations may end up costing more despite best efforts.

This policy proposal also does nothing to specifically address the issue that people may get laid off and, subsequently, there may not be enough employees to do the work.\textsuperscript{77} Ideally this employment audit would help to mitigate layoffs, but without doing the audit it is impossible to tell if that is actually possible. Again, while the concern of layoffs isn’t specific to this policy proposal, it also does not include any measures that have a greater chance of success at preventing them.

The flip side of many of the advantages this policy proposal offers can also be true. One of the ways that this analysis could, and should, go is the determination of whether it is more cost effective to earn overtime or to increase someone’s salary above the overtime threshold. If it is determined that it makes more sense to have a set salary

\textsuperscript{75} “Charity Navigator - Unrated Profile for UNITED STATES PUBLIC INTEREST RESEARCH GROUP INC.”
\textsuperscript{76} “Statement on the Overtime Rule | U.S. PIRG.”
\textsuperscript{77} “New Overtime Rule Facing Criticism From All Sides.”
rather than fluctuating overtime costs, employees could end up making less money in the long run than they had been previously.

If increased wages help employers hire better people, the opposite can be true as well. Lower wages may result in having to hire less qualified employees, which can impact the quality of U.S. PIRG’s work and reputation. Similarly, if higher wages make employees more productive, lowering the wages of some of your employees could cause a decrease or interruption in productivity. Once again, this could have a huge impact on the mission of U.S. PIRG, which is the primary motivator for the skepticism surrounding the increase in the overtime salary threshold. Finally, a sudden decrease in wages, particularly if an employee thought these new regulations might allow them to make more money, could be the catalyst for your employees to quit. Again this impacts the mission success while also creating additional expenses in the hiring and training of new employees.

The final disadvantage with the policy itself is simply the timing. This audit and full process could be quite extensive to complete properly and the FLSA overtime regulations go into effect in December. Other, simpler processes could be completed in a much faster timeline and wouldn’t run the risk of going beyond the December deadline.

**Political Analysis**

**Advantages:**

The vehemence with which U.S. PIRG has spoken out against the FLSA overtime regulations seems at odds with the core values and U.S. PIRG mission. While the U.S.

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78 Wolfers and PM, “Ten Reasons Workers Should Be Paid More.”
79 Alexandre Mas, “Pay, Reference Points, and Police Performance.”
80 Spragins, “Yes, People Really Do Quit Jobs for More Money.”
PIRG does not have the minimum wage or other labor wage specific issues at the moment, there have been multiple state PIRGs that have taken on increasing the minimum wage as an issue.\textsuperscript{82} While the minimum wage and overtime rules are not the same thing by any stretch, these two positions feel at odds with each other. Working through implementing the FLSA regulations in a fair way while also hopefully being efficient could be a model for other nonprofits going forward and could be used to mend the gap between U.S. PIRG’s position on this ruling and their other positions.

While U.S. PIRG may not have labor specific issues, a number of their partner organizations do. U.S. PIRG works on the Corporate Reform Coalition, which is focused on reforming corporate influence in elections after the \textit{Citizens United} Supreme Court decision.\textsuperscript{83, 84} While this coalition may not be focused labor and wages, a number of the participants are labor unions or other progressive groups that have positions on the minimum wage and labor practices generally. Specifically, the AFL-CIO has positions on “restoring the minimum wage to historic levels, restoring overtime protections, and strengthening prevailing wage standards.”\textsuperscript{85} Additionally, SEIU has a specific “Fight for $15” campaign based on raising the minimum wage to $15 an hour.\textsuperscript{86} Both of these organizations are not small or lacking in influence. Having to navigate this partnership


while coming out against one of their core organizational values could make other partnerships very difficult.

A secondary political advantage to working through this employment audit and complying with the FLSA regulations is that the fact that U.S. PIRG speaking out against them has already garnered negative press, it seems unlikely that the goal would be to get more negative press.\textsuperscript{87, 88} Bad news coverage, like these, can lead to a lack of support both publicly and financially. While it doesn’t have to be that dire, this lack of support could potentially be more dangerous to the health of U.S. PIRG than the new overtime regulations. Coming to a good solution on implementation, particularly if it is shared, can be a way to take back the narrative and get news coverage about the actual work U.S. PIRG is doing.

Finally, the last political advantage is the potential alienating of allies they generally have in the Democrats if they don’t go along with this implementation. The new FLSA regulations are the Democrats’ regulations.\textsuperscript{89} This combined with the fact that the Democratic Party Platform includes a commitment to a $15 an hour minimum wage makes it harder to come together over the issue of these overtime regulations.\textsuperscript{90} Fighting too hard over implementation could hamper the support that the Democrats would normally provide on issues the U.S. PIRG works on, like campaign finance reform.

\textsuperscript{87} Jon Pratt, “What’s Wrong with This Picture?”
Disadvantages:

The biggest political disadvantage is with U.S. PIRG’s nonprofit colleagues who also spoke out against these regulations. The American Red Cross, Habitat for Humanity, and Operation Smile provided a united front of well known, large, nonprofits with U.S. PIRG in speaking out against the FLSA overtime regulations both before they were finalized and once they were announced.91 It does impact partnerships and peer relationships when or if U.S. PIRG was to change its stance on the FLSA regulations and was seen bending over backwards to implement them right after being in agreement with these other groups.

Similar to the political disadvantage mentioned above, the public perception of U.S. PIRG’s steadfastness could be damaged by a wholehearted implantation of the overtime regulations. After coming out against them quite strongly, it could seem quite hypocritical to go through more than the barest effort to implement these rules.92 Going forward, the public may not be able to trust the positions and statements that U.S. PIRG puts out on issues if they change their minds on the FLSA overtime regulations. Had the statement been less heated or less focused on the harm these regulations would do to the mission, it may have been easier to walk back from. However, since a line in the sand was drawn over the sanctity of the mission, it becomes a moral and ethical issue. Fully implementing these new regulations without fighting back may make U.S. PIRG seem weak and noncommittal. This could impact everything from partnerships with other organizations, who may be unwilling to put themselves out on an issue if they think U.S.

91 “New Overtime Rule Facing Criticism From All Sides.”
92 “Statement on the Overtime Rule | U.S. PIRG.”
PIRG won’t support them in the long run, to funders who may not want to fund an 
organization that is fickle on their values.

The other group that could potentially feel slighted by this change in direction is 
the U.S. PIRG Director level staff. Based on their backgrounds and the fact none of them 
have spoken publically, many of them likely agree with the original statement.93 It could 
make them feel as though U.S. PIRG can’t be trusted to hold steady and that their work is 
not taken seriously. Obviously it is impossible to know what the staff are thinking unless 
say something, but as they are crucial to the audit working it would be important to figure 
out where they stand ahead of committing to an arduous process.

**Recommendation**

Ultimately, I believe that the benefits outweigh the costs and that U.S. PIRG 
should adopt this policy proposal and go through the full employment audit. Personally, I 
believe in doing things correctly the first time when it is possible and that it saves time, 
effort, and often money. This policy would constitute doing things correctly and fully, 
while honoring the intent of the regulations not just the letter of them. Now is the time to 
going through the U.S. PIRG employment process and determine what works and what 
doesn’t. The fact that the FLSA overtime regulations are soon to be enacted should be the 
greatest motivator to do something proactive.

This process is going to cost money, and potentially cost a significant amount of 
it. There is no doubt about that, but the health and efficiency of U.S. PIRG is a good 
reason to spend that kind of money. Ultimately, creating a more transparent and fair pay 
determination process will make your employees more productive and loyal than they

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93 “Staff | U.S. PIRG.”
would have been if they felt they were being taken advantage of. The only other
disadvantages are mostly political and none of them seem like they will have any major
ramifications. All of the other nonprofits that spoke out against the regulations are also
going to have to do something to implement them or be noncompliant.

There is a philosophy within the movement to increase the minimum wage that is
simply; if you can’t afford to pay your employees fairly, you aren’t running a financially
sound business or organization. While I think there is likely more gray areas then that
philosophy allows, I do ultimately think the idea behind it is true. If U.S. PIRG cannot
afford to pay their employees for the hours that they are working, there is something
wrong with the model. Nonprofits don’t have to force their employees to work for free or
next to nothing, that is not a sustainable practice.

Finally, there is an ethical imperative to make sure that your employees are being
paid fairly and to implement these new overtime regulations with good intentions. An
organization that prides itself on looking out for the public good should not be fighting
against paying its employees more. It is terrible optics and undermines all of the potential
good work that U.S. PIRG can do.
Curriculum Vita

Julia Dieperink was born in Baltimore, Maryland but spent her childhood in a few different states. Currently she lives and works in Washington, D.C. She graduated from American University in 2012 with a major in History. Julia started her career in nonprofits at the League of Women Voters of the U.S. and currently is the Membership & Events Manager at the National Family Planning & Reproductive Health Association.