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Dr. Lund:

On December 1, 2016, the new Department of Labor Fair Labor Standards Act (FLSA) overtime rule revisions will take effect, which will have an impact on the salaries of many postdoctoral trainees funded through National Institutes of Health research grants. As we approach the December 1st implementation date, many NIH-funded researchers are remain uncertain about how to comply with the new overtime rule while continuing to conduct the research described in their NIH grants.

In their joint editorial Dr. Collins and Secretary Perez wrote, "While supporting the increased salaries will no doubt present financial challenges to NIH and the rest of the U.S. biomedical research enterprise, we plan to work closely with leaders in the postdoc and research communities to find creative solutions to ensure a smooth transition." To its credit, the NIH has increased postdoc compensation for Ruth L. Kirchstein National Research Service Awardees, but NRSA funded postdocs make up only a fraction of the postdocs in the enterprise and NIH not yet provided substantive guidance to extramural researchers on how best to handle non-NRSA funded postdocs. The National Science Foundation has published a [detailed question-and-answers document](#) to guide NSF-funded researchers on how the Foundation plans to address the budgetary uncertainty that comes from the decision, whereas the NIH has not yet, to our knowledge, provided equivalent details on the "creative solutions" Dr. Collins referenced in May 2016. This leaves researchers and universities across the country scrambling to meet the fast-approaching rule change. We are therefore writing to request that the NIH provide the biomedical research community with guidance on steps that can be taken to comply with the new FLSA overtime rule while also complying with NIH policy.

As a society representing 12,000 basic researchers across the country, the American Society for Biochemistry and Molecular Biology supported the new FLSA overtime rule as a necessary increase in order to ensure sustainability of the biomedical research enterprise and to ensure a better quality of life for the next generation of workers in our biomedical research enterprise. In our published response to the Department of Labor's proposed revision, we stated our support for the increase, but we also voiced concern over the timing and recommended a three-year implementation plan to allow "research labs, universities and federal agencies time to either institute an overtime pay system or raise postdoc pay above the level covered by this rule."

Primary among our concerns in September, 2015 was the budgetary uncertainty that would stem from a sudden, mandatory, increase in postdoc compensation across the research community. Again, in our comments to the Department of Labor we stated:

"The rule change will create widespread uncertainty and disruptions in budgeting for scientific research. Universities and federal agencies typically set postdoc salaries at levels recommended by the National Institutes of Health. ... (These are) lower than the salary threshold of the proposed rule change, and implementing the change would dramatically increase postdoc pay. Without a corresponding increase in grant funds, this could cause a significant reduction in money spent on experimentation. Similarly, postdocs work 53 hours per week, on average, and sending them home after 40 hours to ensure consistent budgeting would substantially curtail postdocs' productivity. Restricting experimentation or postdoc hours would reduce the return on investment for federal research funds and neither outcome is in the taxpayer's interest."

To address this concern and others, the members of the ASBMB request guidance from the NIH on best practices and any NIH policy changes that will help NIH funded investigators through this budgetary uncertainty. Specifically, we have assembled a list of questions we view as important start for guiding NIH-funded researchers.

Will the NIH increase the funds awarded to institutions to account for the increase in postdoc salaries?

Can grantees re-budget an existing award in order to comply with the final overtime rule, and would re-budgeting require approval from NIH?

Will NIH allow grantees to apply for administrative supplements to cover the additional costs incurred from FLSA overtime rule compliance?

In closing, we hope that NIH will seize this opportunity to inform and advise the biomedical research on the best courses of action.

Sincerely,



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