

REPORTER OVERTIME

Dow Jones contends that all reporters are ineligible for overtime. IAPE disagrees and believes that the Department of Labor Overtime Regulations clearly allow overtime for a great number of reporters.

The Federal regulations expressly define eligibility on the basis of “duties performed” not “job title,” which appears to be the standard being used by Dow Jones.

IAPE has never accepted the Dow Jones interpretation.

Relying upon federal case law, the final regulations clarify that employees of newspapers, magazines, television and other media are not exempt creative professionals (and are therefore eligible for overtime) if they only collect, organize and record information that is routine or already public, or if they do not contribute a unique interpretation or analysis to a news product.

For example, **reporters who rewrite press releases or who write standard recounts of public information by gathering facts on routine community events are not exempt creative professionals and are eligible for overtime.**

Reporters whose work products are subject to substantial control by their employer also do not qualify as exempt creative professionals—and are eligible for overtime.

However, employees may be exempt creative professionals (and ineligible for overtime) if their primary duty is to perform on the air in radio, television or other electronic media; to conduct investigative interviews; to analyze or interpret public events; to write editorial, opinion columns or other commentary; or to act as a narrator or commentator.

Thus, journalists’ duties vary along a spectrum from the nonexempt to the exempt.

The less creativity and originality involved in their efforts, and the more control exercised by the employer, the less likely journalists are to be considered exempt.

There is no “across the board” exemption for journalists; nor has there ever been. Rather, each determination must be made on a case-by-case basis, as is the case with all job classifications.

The majority of journalists, who simply collect and organize public information, or do not contribute a unique or creative interpretation or analysis, are not likely to be exempt.

Nothing in the Department of Labor rules relieves employers from their contractual obligations under collective bargaining agreements.