

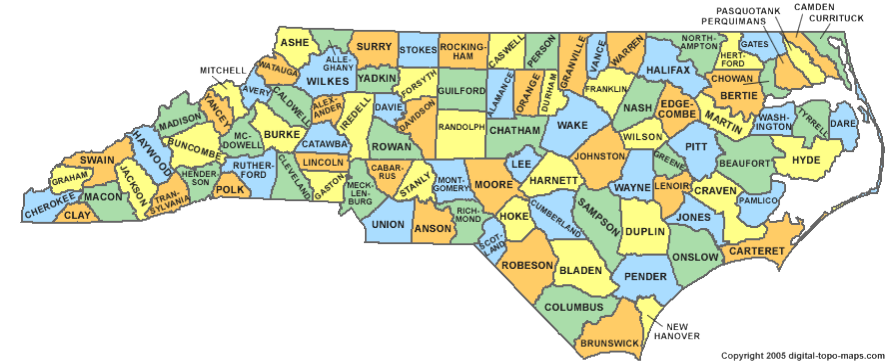
2024 FLSA Overtime Rule and Arts Organizations

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North Carolina Center *for* Nonprofits



Connect Learn Advocate



Important Disclaimers

If you can read this fine print, you are sitting too close to your screen!





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Fair Labor Standards Act and the 2024 Overtime Rule

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Fair Labor Standards Act

- Minimum wage
- Overtime pay for non-exempt employees
- Equal pay for equal work

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Fair Labor Standards Act

- Exemptions for executive, professional, and administrative staff
 1. Paid on salary basis
 2. Must be paid at least the minimum salary threshold – currently \$684/week or more (\$35,568 per year)
 3. Must meet duties test

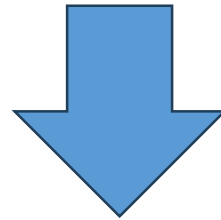
DOL regulations – recent history



2024 final overtime rule

Salary threshold – July 1, 2024

\$684/week (\$35,568 per year)

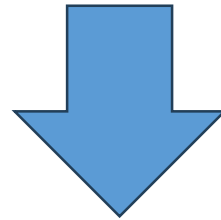


\$844/week (\$43,888 per year)

2024 final overtime rule

Salary threshold – January 1, 2025

\$844/week (\$43,888 per year)



\$1,128/week (\$58,656 per year)

2024 final overtime rule

Updating salary threshold

Every three years, starting July 1, 2027

2024 overtime rule – likely next steps



FLSA Exemption – Duties Tests

- Administrative employees
 - Primary duty is non-manual work
 - Exercise discretion over work
 - Paid on a salary basis at a rate of at least the salary threshold

FLSA Exemption – Duties Tests

- Executive employees
 - Primary duties are managerial duties of organization
 - Supervision of 2+ FTE
 - Authority to hire/fire
 - Paid on a salary basis at a rate of at least the salary threshold

FLSA Exemption – Duties Tests

- Professional employees
 - Primary duty is related to a learned profession or creative profession
 - Paid on a salary basis at a rate of at least the salary threshold
 - With a few important exceptions, including teachers, doctors, and lawyers

2024 final overtime rule

Duties tests

No proposed changes

Some potential loopholes . . .

Initial question:

**Are your nonprofit's
workers employees or
independent contractors?**

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Next question:

Does the Fair Labor Standards Act even apply to your nonprofit and your employees?

A few exemptions

- Seasonal amusement and recreational establishments (federal law exemption)
- Anyone employed by an outdoor drama in a production role (state law exemption)
- Employees of summer camps or seasonal nonprofit educational conference centers (state law exemption)



North Carolina Nonprofits and the 2024 Overtime Rule

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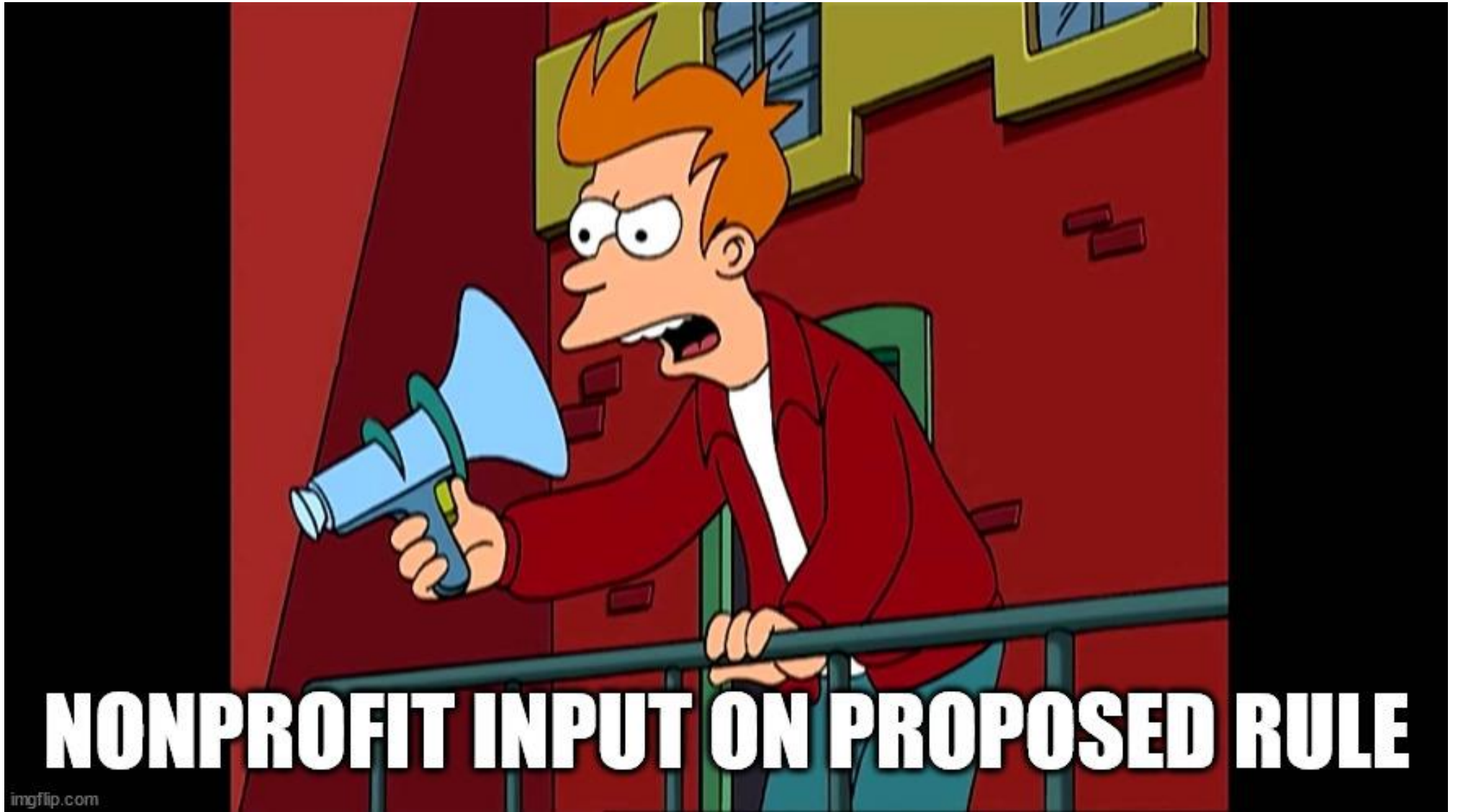


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Typical nonprofit reaction









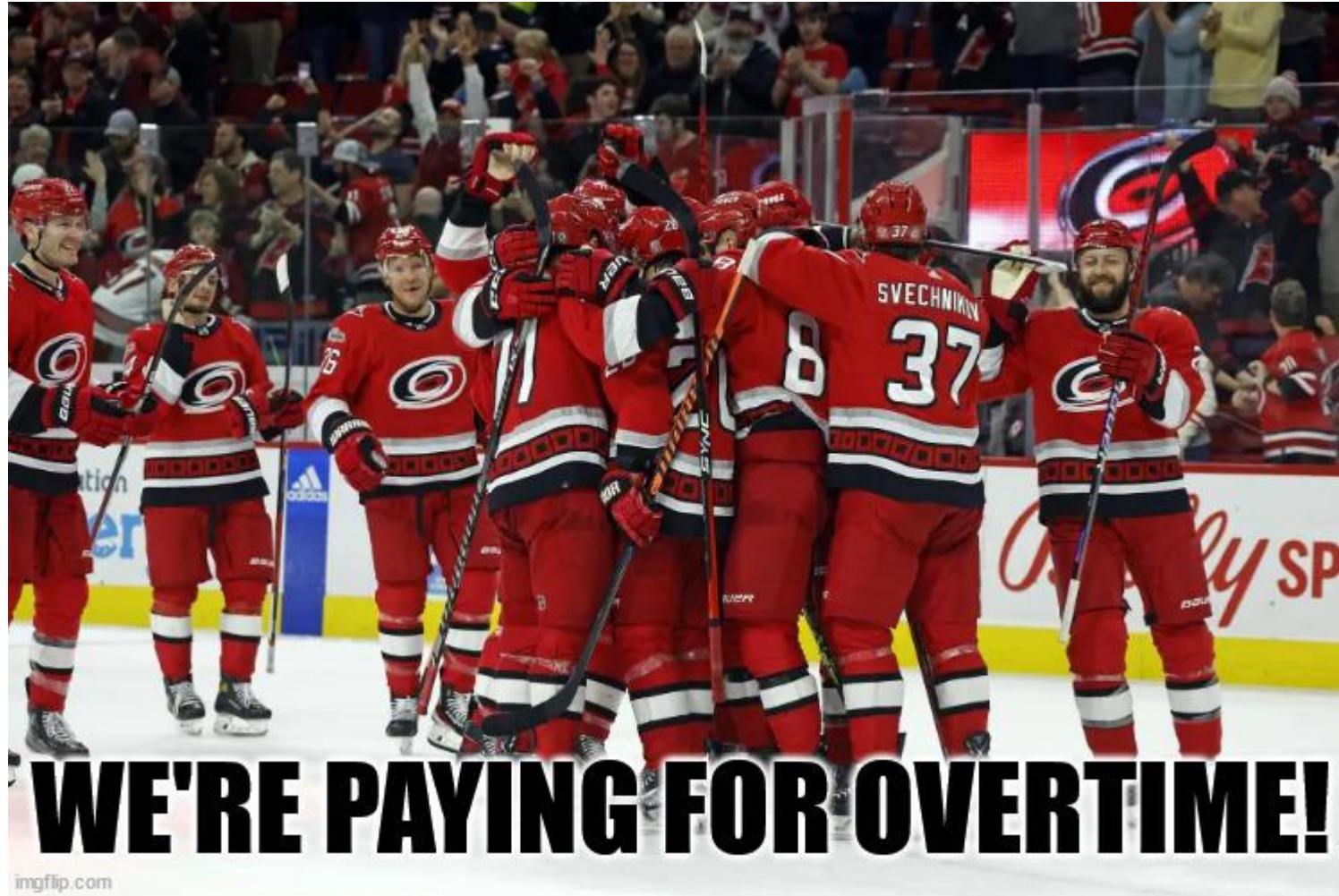


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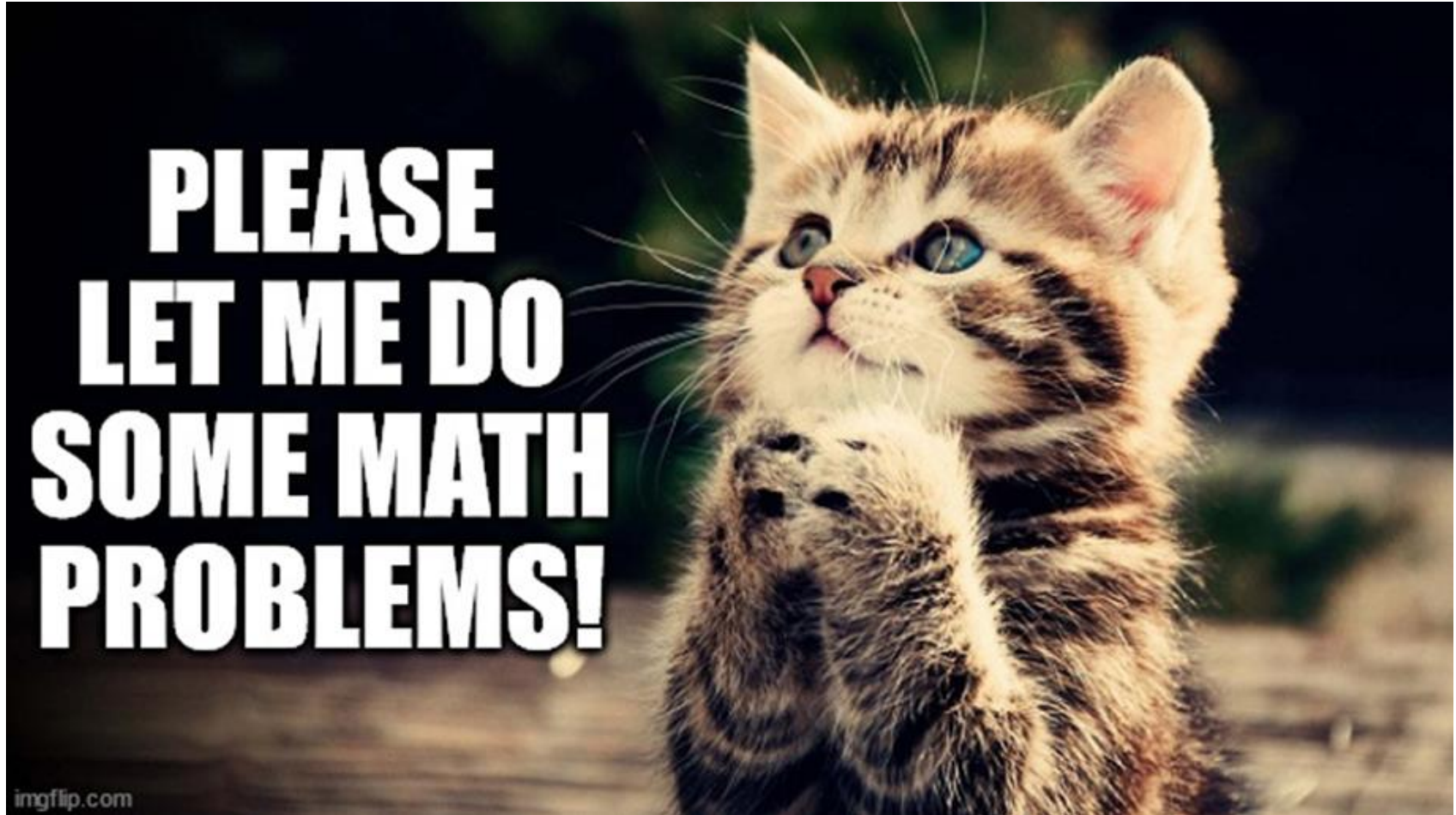
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Fluctuating workweek example

- Production staff at theatre paid a salary – same amount every week
- During production, hours are much longer than other times of year
- Overtime pay =
$$\frac{1}{2} * (\text{weekly salary}) * (\text{hours worked} - 40) / (\text{hours worked})$$



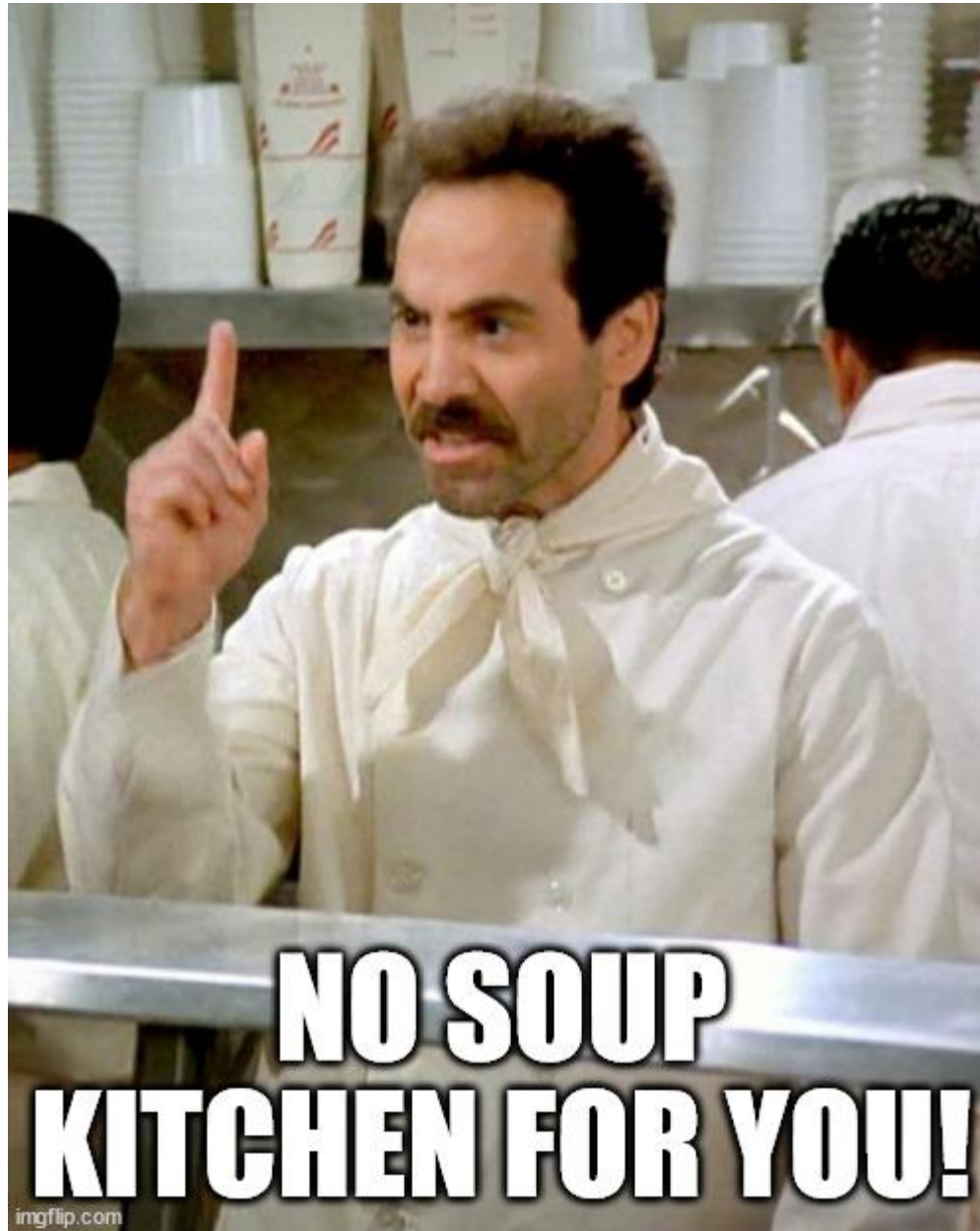


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Nonprofit-specific FLSA questions

(and answers!)

Answers to some common nonprofit questions

- If staff are non-exempt, do they need to be paid on an hourly basis?
- *No, it is permissible to pay salary to non-exempt staff (but you still need to track hours to pay overtime for hours worked over 40 per week)*

Answers to some common nonprofit questions

- If our nonprofit's work week is 35 hours per week, do we need to pay overtime when non-exempt staff work 36+ hours in a week?
- *No, regardless of how you define your work week, you don't need to pay overtime until workers have exceeded 40 hours in a work week*

Answers to some common nonprofit questions

- Does our nonprofit's work week need to be Sunday through Saturday?
- *No, you can define your work week as any period of seven consecutive days.*
- *You just need to be consistent for all staff and all times of the year.*

Answers to some common nonprofit questions

- Can we offer comp time instead of overtime to our non-exempt employees?
- **No.**

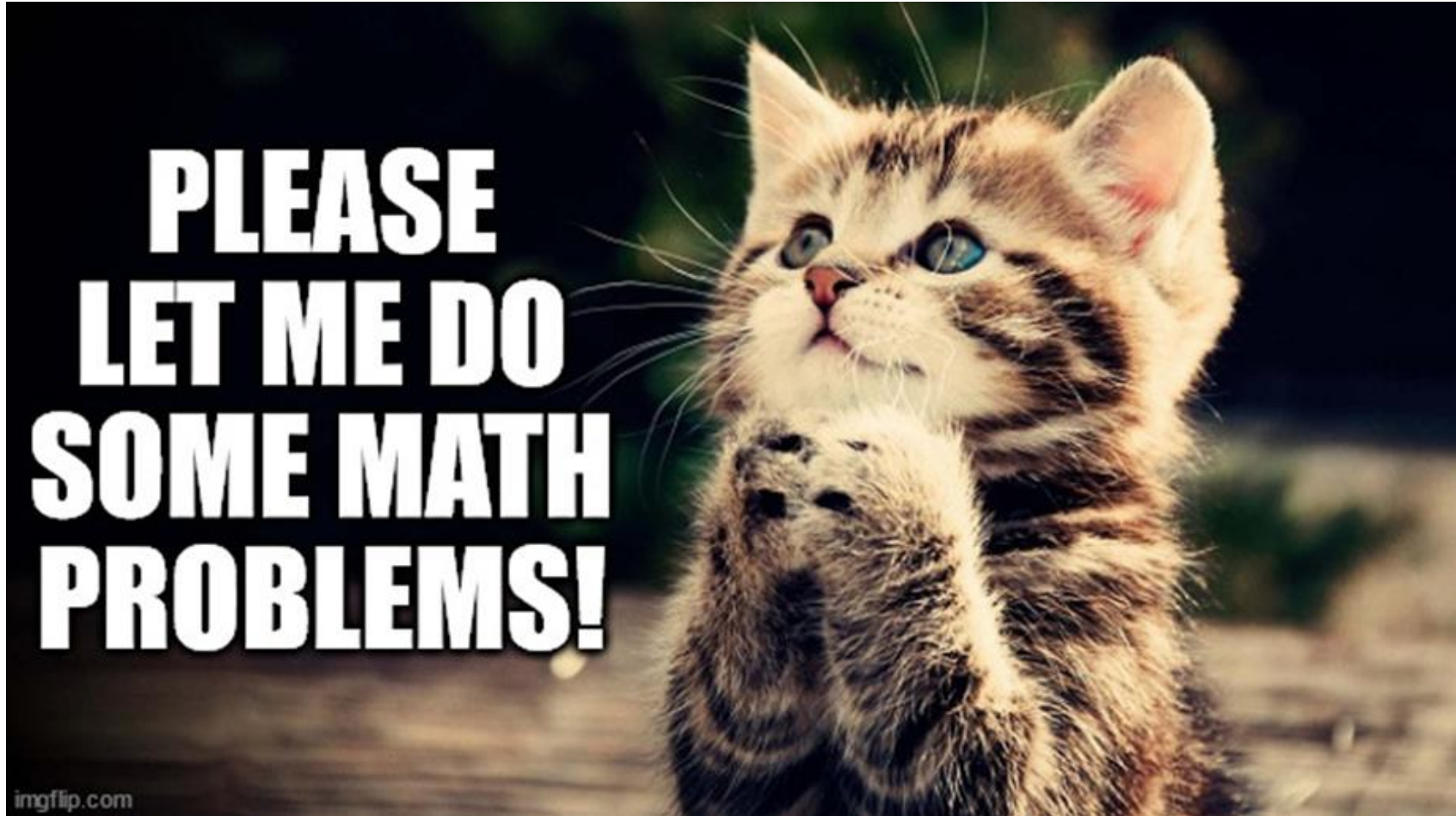
Answers to some common nonprofit questions

- What if we call it recovery time instead of comp time?
- *The answer is still no!*
- *(But good try!)*
- *And it might be worth thinking about how your nonprofit defines your work week.*

Next steps for nonprofits





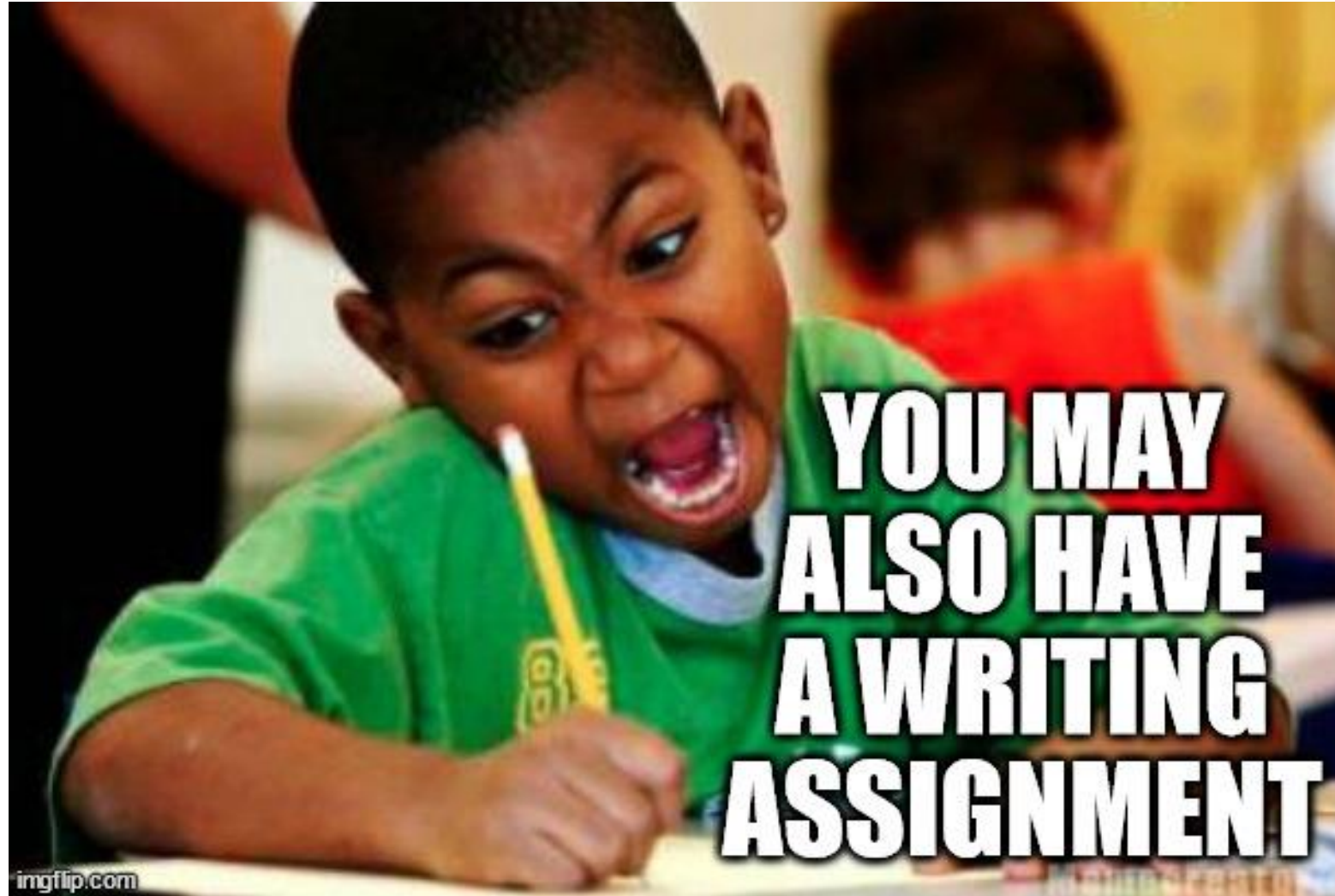


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