

OVERTIME PAY OR COMPENSATORY TIME

IT IS RECOGNIZED THAT THERE MAY BE OCCASIONS WHEN IT IS NECESSARY TO REQUIRE EMPLOYEES TO WORK OVERTIME HOURS. THE SCHOOL BOARD POLICY IS TO FULLY COMPLY WITH THE OVERTIME PROVISIONS OF THE FAIR LABOR STANDARDS ACT (FLSA) AND ANY APPLICABLE COLLECTIVE BARGAINING AGREEMENTS. THE BOARD AUTHORIZES THE SUPERINTENDENT TO PAY OVERTIME, OR, UNDER CERTAIN CONDITIONS, TO PROVIDE COMPENSATORY TIME OFF, TO THOSE EMPLOYEES WHO ARE ENTITLED TO OVERTIME PAY UNDER THE FAIR LABOR STANDARDS ACT (FLSA), AND AS REQUIRED PURSUANT TO APPLICABLE COLLECTIVE BARGAINING UNIT AGREEMENTS OR OTHER EMPLOYEE AGREEMENTS.

STATUTORY AUTHORITY: F.S. 1001.41 (1) (2)  
FAIR LABOR STANDARDS ACT, CFR 29, Chapter V, Parts 510 to 794  
APPROVED AS EMERGENCY ITEM 7/8/76  
POLICY ADOPTED: 9/2/76  
POLICY AMENDED: 10/20/83; 5/15/86; 8/18/98; 11/09/10

## RULES

The Fair Labor Standards Act (FLSA) prescribes standards for overtime pay and requires employees, who are not exempt, to be paid for overtime at an overtime rate of one-and-one-half (1.5) times the employee's regular rate of pay for hours worked beyond forty (40) in a workweek.

Effective upon School Board approval, the following criteria shall be utilized for the payment of overtime and/or the granting of compensatory time for employees who are covered under the overtime provisions of the Fair Labor Standards Act (FLSA) and applicable collective bargaining unit agreements.

### 1. DEFINITIONS

- a. **Compensatory Time:** Time that may be substituted for overtime pay, for the primary position only, by written, mutual agreement between the assigned administrator and the eligible employee when an employee works in excess of their assigned work schedule.

Employees working in non-exempt positions under FLSA accumulate compensatory time, for each additional hour worked over forty (40) hours in a workweek, at the overtime rate of one-and-one-half (1.5) hours for each hour worked over the forty (40) hour workweek.

Employees working in exempt positions, who are eligible for compensatory time under an applicable collective bargaining agreement, will accumulate all compensatory time on a straight-time basis.

Supervisors shall make every effort to schedule time off for the employee to limit accrued compensatory time to a maximum of thirty-five (35) hours. Federal regulations prohibit a non-exempt employee's compensatory time balance to exceed two-hundred-and-forty (240) hours. Compensatory hours earned in excess of the 240 hours must be paid.

- b. **Position:** Job title or role which an employee performs work for the District.
- 1) **Primary position:** The regularly scheduled position for which the employee works the majority of their workweek.
  - 2) **Additional position:** A different position than the primary position which may occur on an occasion. An employee may hold one or more additional positions.
- c. **Overtime straight hours (OTS):** Additional hours beyond an employee's work schedule, but less than forty (40) hours per workweek. Employees are eligible for additional compensation, or compensatory time, as remuneration for the overtime hours worked per their collective bargaining unit agreement.
- d. **Overtime Premium Hours (OTP):** Additional hours worked over forty (40) hours in a seven (7) day workweek by a non-exempt employee under the FLSA, or an exempt employee provided with overtime pay under a collective bargaining unit agreement. Such employees are eligible for additional compensation, or compensatory time, as remuneration for the overtime hours worked in accordance with their collective bargaining unit agreement.
- e. **Overtime Pay:**
- 1) **Primary position – Non-exempt employees:** Hours worked over forty (40) hours in a seven (7) day workweek are calculated at the overtime rate, which is one-and-one-half (1.5) times the regular hourly rate of pay.

Primary position - Exempt employees entitled to overtime pay pursuant to a collective bargaining unit agreement are paid for hours worked beyond the employee's work schedule at the employee's regular hourly rate of pay.

- 2) Additional position – Non-exempt employees: When an employee in a single workweek works one or more additional positions, the rate on the additional position will be used. An employee must be in a similar or like position to receive overtime pay in accordance with the FLSA. If the additional position is not considered similar work to their primary position, the employee will receive the established rate on the additional position.

Additional position – Exempt employees: When an employee in a single workweek works one or more additional positions, the rate on the additional position will be used.

- f. Work Schedule: The standard hours in a workweek that an employee is scheduled to work in their primary position, pursuant to a collective bargaining unit agreement or other employment agreement.
- g. Workweek: A workweek is a fixed and regularly recurring period of seven (7) consecutive 24-hour periods. The workweek may begin on any day of the week and any hour of the day. Once the workweek is established, it may not be changed unless a change is intended to be permanent.

## 2. DESIGNATION OF EXEMPT AND NON-EXEMPT

- a. The Division of Human Resources will maintain a list of job positions which identify each position as exempt or non-exempt for overtime under FLSA.
- b. Exempt Employee: An employee whose position is exempt from overtime pay under FLSA.
- c. Non-Exempt Employee: An employee whose primary position is not exempt from overtime pay under FLSA.

## 3. STANDARDS

- a. Overtime Work Provisions: Overtime pay shall be in compliance with FLSA and any applicable collective bargaining unit agreements or other employment agreements.
- b. Cost Containment Strategy:
- 1) Use of overtime hours is limited only to situations deemed by the supervisor as critical to meeting special or emergency work situations.
  - 2) Whenever possible, compensatory time shall be used first before overtime pay.
- c. Sign-in/Sign-out System: All work locations shall maintain a sign-in/sign-out system for all employees working overtime.
- d. Work Day Schedule: At the end of the scheduled work day, all employees eligible to earn overtime or compensatory time are expected to stop work and leave their location, unless prior written approval is obtained from their supervisor.
- e. Disciplinary Action: Employees, who are eligible to earn overtime or compensatory time, and work overtime hours without prior written approval from their supervisor, will be subject to disciplinary action up to and including termination.

## 4. OVERTIME/COMPENSATORY TIME

- a. Compensation: When a non-exempt employee is approved to work overtime by the supervisor and works over 40 hours in a workweek in the employee's primary position, the time worked over forty (40) hours shall be compensated at one-and-one-half (1.5) times the employee's regular rate of pay and the employee shall receive either overtime pay or compensatory time.
- b. Compensation Exclusion: Overtime or compensatory time, has not been earned unless the employee has obtained the required approval and worked in excess of their assigned work schedule. Annual/vacation leave, sick leave, official leave and unpaid/paid holidays are not counted as hours worked for purposes of determining overtime or compensatory time.
- c. Fiscal Requirement: The projected cost of overtime must be formally budgeted as part of the annual operational budget.
- d. Prior Approval Requirement: Prior to authorizing the use of overtime, department heads/supervisors/principals must obtain approval from the Executive Leadership Team (ELT) member responsible for the area/department/division.
- e. Supervisory Authority: Once approval to use budgeted overtime hours has been obtained from the ELT member, the department supervisor must approve, in writing, the employee to work the additional hours beyond the standard work schedule. Form #4707 shall be utilized to document advance approval of overtime or compensatory time for employees.
- f. Emergency Use of Overtime: Will be determined by the appropriate supervisor on a case by case basis.
- g. Upon transfer/promotion to another department within the District, payment for all accrued but unused compensatory time shall be paid to the employee, based on the regular rate of pay in effect prior to the transfer/promotion, within sixty (60) days of the effective date of transfer.
- h. Upon separation of employment with the District, payment for all accrued but unused compensatory time shall be included in the employee's final paycheck, as required under 29 CFR, Chapter V, Part 553, §553.21(3)(B).

## 5. DECLARED EMERGENCIES

In the event that a declaration of emergency is proclaimed by the governor, local city or county governmental authority, employees will be compensated when required to work. Employees will be compensated in the following manner: Non-exempt employees' compensation is determined by the provisions for declared emergency compensation outlined in the applicable collective bargaining agreements. Exempt employees will be compensated at the employee's regular rate for the overtime worked. All overtime worked related to a declared emergency must be authorized and approved prior to performing the duties.

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