

Intradistrict Communication

DATE: May 4, 2022

TO: All Principals and Directors

FROM: June LeMaster, Ph.D., Administrator of Human Resources
Brent Burge, Human Resource Administrator, ESP

SUBJECT: Education Support Professionals (Non-Exempt) Employee Overtime Reminder

Based on the Fair Labor Standards Act (FLSA), licensed and administrative employees are considered exempt. This means they are not eligible for overtime pay and are not able to accrue compensatory time (comp time). Currently, all ESP employees are considered non-exempt and are eligible for overtime and/or comp time. This memo is specific to ESP, non-exempt employees.

In order to ensure we are compliant with the FLSA regarding overtime, this memo will outline the overtime rules and tracking procedures all District administrators should be following with non-exempt employees.

According to District Policy DP 343 NEG Hours of Work-ESP, ESP employees must be paid at one and one-half times the regular rate of pay for all hours worked over 40 in a work week or receive compensatory time off during the same or successive pay period at the rate of one and one-half times the actual overtime worked during any work week. Only compensatory time will be considered hours worked for the purpose of calculating the 40-hour work week.

What qualifies as overtime?

A non-exempt employee must work over 40 hours during the pay week which begins Monday morning and ends Sunday evening. If an employee uses annual leave, sick leave, vacation or other leave during any given week, that time is not counted as time worked. For example, a custodian works eight hours each day, Monday thru Friday and works ten hours on Saturday. The employee worked 10 hours of overtime which equals 15 hours of comp time. In the same example, if the custodian took vacation on Monday the employee would be eligible for eight hours of straight time and only two hours of overtime which equals three hours of comp time.

By policy, the only time off that can be counted towards overtime is comp time. In the example above, if the custodian took Monday off and used Comp time for it, the employee would be eligible for 10 hours of overtime. Employees may not work extra hours in one week to make up for hours missed in a previous or future week.

How is overtime paid?

There are two options for paying overtime. The first is to pay time and one-half on TrueTime/time sheet. If an employee works four hours of overtime and makes \$20.00/hour, you would pay the employee \$30.00/hour for the four hours. You must have the funds to pay for any overtime.

The second option is to give them comp time. Comp time is time that can be used at a later date to be absent from work. If an employee works four hours of overtime, they would be eligible for six hours of comp time. Accrued Comp Time must be entered and tracked in Skyward.

Procedures for accumulating/using comp time.

According to DP343, *Any overtime work or call-back time shall be granted only upon the prior approval of the appropriate classified director or supervisor.* All schools/departments should establish a process for each employee to follow in order to get prior approval to work longer than contracted or to use comp time.

The attached tracking sheet may be used by employees to submit for approval to work overtime. If the employee needs to work additional hours, the employee would submit this form, including the reason for the additional hours, and an administrator would authorize the work. Any approved comp time worked must be tracked in Skyward Employee Access as well as any comp time used.

Comp time must be used within the same or the next pay period. You may not allow employees to accumulate comp time over an extended period of time or to accumulate large amounts of comp time.

Notification to employees.

All employees should be working their established work hours based on their contract. Employees should be directed not to work extra hours without prior written approval. If a situation arises that requires immediate attention and prior approval is not feasible, the employee must notify an administrator the next working day and documentation should be completed. If employees are violating the directive, disciplinary action should be taken. According to the FLSA, if you knew or should have known an employee was working more than 40 hours, you are liable for overtime. Penalties for violating FLSA include extensive fines, back pay and criminal prosecution, which may result in imprisonment of the supervisor.

In summary:

- **The Fair Labor Standards Act governs overtime rules and tracking procedures for employees.**
- **Licensed and administrative employees are exempt and are not entitled to overtime pay or comp time.**
- **All ESP employees are non-exempt and are entitled to overtime or comp time after 40 worked hours.**
- **Overtime is paid at time and one half. Comp time is accumulated at time and one half.**
- **Comp time cannot be accumulated over an extended period of time or accumulated in large amounts.**
- **Penalties for violating FLSA include extensive fines, back pay and criminal prosecution, which may result in imprisonment of the supervisor.**

We hope this information is helpful and feel free to call if you have questions.

Thank you for your assistance.

Cc: Cabinet

**EDUCATION SUPPORT PROFESSIONALS (NON-EXEMPT) EMPLOYEES
COMPENSATION (COMP) TIME REQUEST**

(Requests to work additional hours must be made in advance)

Requested Date(s): _____ Number of hours: _____

I am requesting to work additional hours for the following purpose: _____

Employee Signature

Date

Approved **Denied**

If approved, these hours will be **Paid -next payroll (Timesheet)** **Accrued-Comp time**

Principal/Director Signature

Date

Only hours worked beyond 40 hours in a week will be paid or accrued at time and one half. Vacation, sick, personal or other leave days are NOT counted as time worked. See policy *DP343 NEG Hours of Work*

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