

# Tyler County Policy: GBK

## **OVERTIME/COMPENSATORY TIME POLICY:**

The purpose of this policy is to ensure that the Tyler County Board of Education, hereinafter referred to as the Board, complies with the overtime provisions of the Fair Labor Standards Act (FLSA), regulations of the U.S. Department of Labor, Wage and Hour Division, and all applicable state statutes and regulations related to the compensation of full-time and part-time employees.

### **1. GENERAL:**

1.1. Under the FLSA, specific legal requirements apply to overtime pay, compensatory time and record keeping for non-exempt employees. All county school service personnel, as defined in WV Code §18A-4-8(i), are considered non-exempt employees and may not waive their rights under the FLSA.

1.2. All employees of the Board are expected to work a forty-hour work week each week. Board employees may regularly and routinely be scheduled to work less than a 40-hour workweek; however, the Board retains the right to request an employee to work up to 40 hours during a workweek without additional compensation (with exception of in-county extracurricular trips).

1.3. Overtime pay at one and one-half times the rate of pay will be paid to non-exempt employees for all hours worked over 40 hours in any one workweek. Bus drivers who normally work less than forty hours per week will be paid for any additional time worked outside of the normal route duties at the employee's regular rate for extra hours worked up to a total of 40 hours worked in a week.

1.4. Non-exempt employees are not permitted to volunteer to perform services for or on behalf of the school system if the volunteer duties involve the same types of duties that the employees normally perform as a part of their regular duties for the school district.

### **2. WORKWEEK:**

2.1. For purposes of the Fair Labor Standards Act, the workweek for all employees of the Board is defined as beginning at 12:00 a.m. Sunday and ending at 11:59 p.m. Saturday. Working hours for all non-exempt employees of the Board under the FLSA will conform to federal and state regulations.

### **3. ATTENDANCE EXPECTATIONS:**

3.1. All employees are expected to be present during their scheduled working hours. Absence without prior approval, chronic absences, habitual tardiness or abuses of designated working hours are all considered neglect of duty and will result in disciplinary actions, up to and including dismissal. Non-exempt employees who have not been granted prior approval by the appropriate authority to work overtime may not arrive at their workstations earlier than their scheduled starting time and must leave their workstations at their scheduled ending time. Failure to comply with this requirement may result in disciplinary action, up to and including dismissal.

**4. TIME AND ATTENDANCE REPORTS:**

4.1. Every employee classified as non-exempt personnel is required to complete a time sheet for each week worked during the employees employment term, reflecting the actual starting and ending times for each day worked and the total time worked. The employee and the employee's immediate supervisor will each sign the time sheet prior to its submittal in a timely manner to the payroll office.

**5. OVERTIME AND COMPENSATORY TIME:**

5.1. The Board discourages overtime work by non-exempt employees unless absolutely necessary.

5.2. A non-exempt employee shall not work overtime without the expressed written approval of his/her supervisor. The request must be submitted in writing using the appropriate form. Overtime for trips is considered approved when the trip is approved. In an emergency situation, verbal approval may be granted, however, a written request must be submitted within 24 hours following the verbal approval.

5.3. Supervisory personnel must monitor overtime use on a weekly basis to ensure that all overtime worked is necessary. With the mutual agreement of the employee and the immediate supervisor, as required by the provisions of West Virginia Code §§18A-4-8a(8) and 18A-4-8(d), work schedules may be adjusted within a workweek to preclude the need for overtime. This is considered an adjusted workweek and would not be recorded as compensatory time, as long as the hours worked during the workweek do not exceed 40.

5.4. In lieu of overtime compensation, non-exempt employees may receive compensatory time off at a rate of not less than one and one-half (1.5) hours for each one hour of overtime worked exceeding 40 actual work hours, if such compensatory time (1) is agreed to by the employee in writing before the overtime work is performed and (2) is authorized by the immediate supervisor.

5.5. Non-exempt employees may accrue a maximum of 40 compensatory time hours. All compensatory time earned must be used in ½ day (4 hour) and full day (8 hour) increments within the same fiscal year as earned. Any compensatory time earned must be used before any time taken off work whether paid or unpaid is used such as personal, sick, vacation or leave without pay. Any compensatory time that is not used within this time will be paid at the employee's current regular rate. The request to use accrued compensatory time must be made in writing at least two days prior to the date for which the leave is requested. Approval of such a request is subject to scheduling, school system operations, work demands and the number of other personnel taking the same time off.

5.6. In computing the 40-hour workweek for overtime purposes, only actual hours worked will be counted. Time taken off work on paid or unpaid leave, including personal, sick, or military leave, vacation, time off without pay, jury duty, compensatory time or other absences from work, whether approved or unapproved, outside school environment days, and days canceled due to inclement weather (snow days) will not be counted as hours worked.

5.7. Pursuant to the provisions of West Virginia Code §18A-4-8a(6), any non-exempt personnel who is required to work on any legal school holiday as described in West Virginia Code §18A-5-2, shall be paid at a rate of one and one-half times the employee's usual hourly rate.

5.8. Pursuant to the provision of West Virginia Code §18A-4-8a(7), any full-time non-exempt personnel who is required to work in excess of his/her normal working day during any week which contains a school holiday shall be paid at a rate of one and one-half times the employee's usual hourly rate for the additional hours or fraction of additional hours worked.

5.9. Pursuant to the provision of West Virginia Code §18-4-8(e), a non-exempt employee whose regular work week is scheduled from Monday through Friday and agrees to perform any work assignments on a Saturday or Sunday is to be paid for at least one-half day of work for each day he or she reports for work, and if the employee works more than three and one-half hours on any Saturday or Sunday, the employee is to be paid for at least a full-day of work.

**Note: In computing the overtime rate for a workweek in which this provision applies, only the actual hours worked on a Saturday or Sunday and the pay related to those hours will be included in the overtime computations. The pay for hours not actually worked will be paid at the employee's regular rate.**

## 6. COMPUTATION OF OVERTIME PAY:

6.1. Overtime compensation will be paid or compensatory time awarded for actual hours worked in excess of 40 during a given workweek, as defined in Section 2.

6.2. In computing the total number of overtime hours worked, time worked will be rounded to the nearest fifteen-minute increment. For example, one hour and 5 minutes will be rounded to one hour (1.0 hour) and one hour and 10 minutes will be rounded to 1 hour and 15 minutes (1 and  $\frac{1}{4}$  hour).

6.3. Overtime compensation will be paid at the rate of one and one-half times the employee's regular rate of pay for each hour worked in excess of 40 during a workweek. Generally, the regular rate will include all compensation earned by the employee during the workweek divided by the total number of hours worked.

6.4. In situations where an employee performs two or more different duties during the workweek with differing regular compensation rates, such as his/her regular duty and an extra-curricular and/or extra-duty assignment, overtime compensation will be computed using one of the following methods:

**(a) Weighted average method** – This involves calculating the employee's regular rate of pay for the workweek by taking the weighted average of all jobs performed during the workweek. To find the weighted average, determine the employee's total earnings for the week and divide this total by the total number of hours worked on all jobs. Once the weighted average has been determined, overtime will be calculated at one and one-half times this average.

**(b) Separate rates method** – This involves calculating the employee's regular rate of pay for the workweek by computing the rate for each job separately. The overtime rate is based on the regular rate that applies to the type of work performed during the hours in excess of 40 hours. This method is available for hourly workers only. Before it can be used, the employer and employee must agree prior to the additional work being performed.

**7. VIOLATIONS:**

- 7.1 Any exempt or non-exempt employee who violates any provision of the board's overtime policy, or any regulations or procedures related thereto, may be subject to disciplinary actions, up to and including dismissal.

First Reading: May 22, 2006  
Second Reading: June 5, 2006  
Adopted: June 19, 2006  
Reviewed: June 15, 2009

**C.2 - AGREEMENT TO RECEIVE COMPENSATORY TIME OFF:**

Pursuant to the Fair Labor Standards Act (FLSA), the Tyler County Board of Education has a policy of granting compensatory time off to non-exempt employees in lieu of overtime pay for time worked in excess of 40 hours in any workweek. A copy of the policy dated June\_2006, has been provided to me.

I understand that I must obtain my supervisor's express written authorization to work overtime prior to working in excess of 40 hours in any workweek. I understand that I will earn compensatory time at a rate of one and one-half (1.5) hours for each hour of overtime worked in excess of 40 hours worked. I further understand that I may not earn more than 40 hours of compensatory time, that I must take the time earned within the same fiscal year that it is earned in ½ day or full day increments, and that I must take the time before using any personal, sick, vacation or leave without pay. I also understand that if I am unable to use all compensatory time earned during the allotted time due to the work requirements, that I will receive compensation for the unused compensatory time at my current regular hourly rate of pay.

I hereby knowingly agree and consent to the use of compensatory time in lieu of overtime pay for any time worked in excess of 40 hours in any workweek.

This agreement will continue in force until terminated.

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Employee Signature

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Date

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Supervisor Signature (or designee)

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Date