

## **8.11 —OVERTIME and COMPLYING WITH FLSA for CLASSIFIED PERSONNEL**

The Benton School District shall comply with those portions of the Fair Labor Standards Act that relate to the operation of public schools. The act requires that covered employees be compensated for all hours worked at greater than or equal to the applicable minimum wage for workweeks of less than or equal to 40 hours. It also requires that employees be compensated for workweeks of greater than 40 hours at 1 1/2 times their regular rate of pay.

### **Definitions**

Overtime is hours worked in excess of 40 per workweek. Compensation given for hours **not** worked such as for paid holidays or sick days do **not** count in determining hours worked per workweek.

Workweek is the seven day consecutive period of time from 12:00AM on Sunday to 11:59 PM on Saturday. Each workweek is independent of every other workweek for the purpose of determining the number of hours worked and the remuneration entitled to by the employee for that week.

Exempt Employees are those employees who are not covered under the FLSA because the employee's:

- A. Primary job duties are considered to be exempt eligible due to being administrative or professional in nature. Examples include teachers, counselors, registered nurses, and supervisors; and
- B. Salary meets or exceeds a minimum weekly/annual amount. Any employee who is unsure of their coverage status should consult with the District's Administration.

Covered Employees (also defined as non-exempt employees) are those employees who are not exempt, generally termed noncertified, and include bus drivers, clerical workers, maintenance personnel, custodians, transportation workers, receptionists, paraprofessionals, food service workers, secretaries, bookkeepers, and LPN's.

Regular Rate of Pay includes all forms of remuneration for employment and shall be expressed as an hourly rate. For those employees previously paid on a salary basis, the salary shall be converted to an hourly equivalent. Employees shall be paid for each and every hour worked.

### **Employment Relationships**

The District does not have an employment relationship in the following instances:

1. Between the District and student teachers;
2. Between the District and its students; and
3. Between the District and individuals who as a public service volunteer or donate their time to the District without expectation or promise of compensation.

The District does not have a joint employment relationship in the following instances:

1. Between the District and off-duty policemen or deputies who are hired on a part-time basis for security purposes or crowd control. The District is separate from and acts independently of other governmental entities.

2. Between the District and any agency contracted with to provide transportation services, security services, substitute teachers or other temporary employees, or other services.

### **Hours Worked**

Employees shall be compensated for all hours worked each workweek. Employees shall accurately record the hours they work each week.

The District shall determine the manner to be used by employees to accurately record the hours they work. Each employee shall record the exact time they commence and cease work including meal breaks. Employees arriving early may socialize with fellow workers who are off the clock, but shall not commence working without first recording their starting time.

Employees shall sign in/clock in where they start work and sign out/clock out at the site where they cease working. Employees who do not start and end their workday at the same site shall carry a time card or sheet with them to accurately record their times. They shall turn in their time sheets or cards to their immediate supervisor no later than the following Friday morning after reviewing them to be sure that they accurately reflect their hours worked for that week.

Each employee is to personally record his or her own times. Any employee who signs in or out (or who punches a time clock) for another employee or who asks another employee to do so for him or her will face disciplinary action which may include termination of employment.

### **Breaks and Meals**

Each employee working more than 20 hours per week shall be provided two, paid, 15 minute duty free breaks per workday.

Meal periods which are less than 30 minutes in length or in which the employee is not relieved of duty are compensable. Employees with a bona fide meal period shall be completely relieved of their duty to allow them to eat their meal which they may do away from their work site.

The employee shall not engage in any work for the District during meal breaks except in rare and infrequent emergencies.

Covered employees who work thirty-five (35) hours a week and receive a duty free meal period shall not be eligible to receive the two (2) paid breaks for working more than twenty (20) hours.

### **Overtime**

Covered employees shall be compensated at not less than 1.5 times his or her regular rate of pay for all hours worked over 40 in a workweek. Overtime compensation shall be computed on the basis of the hours worked in each week and may not be waived by either the employee or the District. Overtime compensation shall be paid on the next regular payday for the period in which the overtime was earned.

Employees working two or more jobs for the District at different rates of pay shall be paid overtime at a weighted average of the differing wages. This shall be determined by dividing the total regular remuneration for all hours worked by the number of hours worked in that week to arrive at the weighted average. One half that rate is then multiplied times the number of hours worked over 40 to arrive at the overtime compensation due.

### **Overtime Authorization**

There will be instances where the district's needs necessitate an employee work overtime. It is the Board's desire to keep overtime worked to a minimum. To facilitate this, employees shall receive authorization from their supervisor in advance of working overtime except in the rare instance when it is unforeseen and unavoidable.

All overtime worked will be paid in accordance with the provisions of the FLSA. If the overtime was **not** pre-approved or fit into the exceptions noted previously, disciplinary action must be taken for failure to follow District policy. In extreme and repeated cases, disciplinary action could include the termination of the employee.

### **Leave Requests**

All covered employees shall submit a leave request form prior to taking the leave if possible. If, due to unforeseen or emergency circumstances, advance request was not possible the leave form shall be turned in the day the employee returns to work. Unless specifically granted by the Board for special circumstances, the reason necessitating the leave must fall within District policy.

Payment for leave could be delayed or not occur if an employee fails to turn in the required leave form. Leave may be taken in a minimum of 15 minute increments.

### **Record Keeping and Postings**

The District shall keep and maintain records as required by the FLSA for the period of time required by the act.

The District shall display minimum wage posters where employees can readily observe them.

### **Cooperation with Enforcement Officials**

All records relating to the FLSA shall be available for inspection by, and District employees shall cooperate fully with, officials from the DOL and/or its authorized representatives in the performance of their jobs relating to:

1. Investigating and gathering data regarding the wages, hours, and other conditions and practices of employment;
2. Entering, inspecting, and/or transcribing the premises and its records;
3. Questioning employees and investigating such facts as the inspectors deem necessary to determine whether any person has violated any provision of the FLSA.

Legal References:        29 USC § 206(a), ACA § 6-17-2203  
                                 29 USC § 207(a)(1), 29 CFR § 778.100  
                                 29 USC § 207(o), 29 CFR § 553.50  
                                 29 CFR § 778.218(a)  
                                 29 CFR § 778.105  
                                 29 USC § 213(a), 29 CFR §§ 541 et seq.  
                                 29 USC § 207(e), 29 CFR § 778.108  
                                 29 CFR §§ 785.9, 785.16  
                                 29 CFR § 516.2(7)  
                                 29 CFR §§ 785.1 et seq. ACA § 6-17-2205 and 2207

29 CFR §§ 785.19  
29 USC § 207(a), 29 CFR § 778.100, 29 USC § 207(o), 29 CFR §§  
553.20 – 553.32  
29 CFR § 778.106  
29 USC § 207(g)(2), 29 CFR § 778.115  
29 USC § 207(o)(2)(A), 29 CFR § 553.23  
29 CFR § 553.20  
29 USC § 207(o)(4), 29 CFR § 553.27  
29 USC § 211(c), 29 CFR §§ 516.2, 516.3, 553.50  
29 CFR § 516.4  
29 CFR §§ 516.5, 516.6  
29 USC § 211(a)(b)

Date Adopted: 03/13/2006

Last Revised: 05/14/2018