

GCRD-R Classified Personnel Overtime Pay

7/19/12

RATIONALE/OBJECTIVE:

The Cobb County School District (District) complies with the provisions of the Fair Labor Standards Act which established a minimum wage and overtime pay requirement for non-exempt employees.

RULE:**A. FAIR LABOR STANDARDS ACT (ACT) PROVISIONS:**

For non-exempt employees the Act provides, in part:

1. An employer must pay at least the minimum wage set by the Act for the hours worked in a workweek;
2. An employer must pay at least one and a half times an employee's regular rate for work in excess of 40 hours in a workweek; and
3. A public employer, under certain circumstances, may grant compensatory time off in lieu of overtime compensation; provided that the compensatory time must be earned at a rate of at least one and a half hours of compensatory time for each hour worked over 40 hours in a workweek.

B. OVERTIME:

Each non-exempt employee must receive his/her overtime rate of pay for "all hours worked" over 40 hours in the workweek.

1. Included in Overtime:

"All hours worked" in the work week that are used to determine overtime hours include:

- a. The sum of actual hours worked;
- b. Vacation hours used; and
- c. 260 day employees' paid holiday hours.

2. Not Included in Overtime:

"All hours worked" in the work week that are used to determine overtime hours do not include:

- a. Personal leave;
- b. Short-term leave;
- c. Administrative leave with pay; nor
- d. Any other type of leave, with or without pay, are not included in the calculation of overtime hours.

C. RESPONSIBILITY:**1. Exempt/Non-Exempt:**

The Compensation Office in Human Resources is the District's authority on determining which positions are exempt and which are non-exempt.

a. Non-Exempt Employees:

All non-exempt employees must receive at least the minimum wage and are eligible to receive overtime pay and/or compensatory time off for all hours worked in excess of forty (40) hours per week. The District's Compensation Office determines whether a position should be classified as non-exempt or exempt.

b. Exempt Employees:

Exempt employees are not eligible to receive overtime pay and/or compensatory time off.

2. Supervisor Responsibility:

Supervisors, including principals, are responsible for the following:

- a. Communicating overtime requirements to non-exempt employees under their supervision;
- b. Enforcing overtime requirements for non-exempt employees under their supervision;
- c. Monitoring overtime pay and employee accumulation of compensatory time, and to assure that expenditures do not exceed their school/department/division budget;
- d. Ensuring that non-exempt employees understand that they must request and receive prior approval to work overtime:
 - (1) Unauthorized (unapproved) work in excess of 40 hours in the workweek may subject the employee to disciplinary or administrative action.
 - (2) The District must compensate non-exempt employees for working overtime even if the supervisor did not approve the overtime in advance; and
- e. **Documenting employee work time as follows:**
 - (1) Collecting from each non-exempt employee:
 - (a) His/Her daily time records which accurately reflect the employee's hours actually worked; and
 - (b) Records of the employee's compensatory time earned and used each pay period as well as the amount of earned but unused compensatory time remaining in the employee's bank.
 - (2) Maintaining the above records for four years.
 - (3) Employees not required to use time devices will use the District approved time and attendance form.

D. GUIDELINES:

1. Work Time:

a. All Hours Worked:

All actual hours spent by non-exempt employees doing work for the District in any capacity, including all supplemental work, such as the After School Program, Facility Use Program, and school extracurricular events.

b. Non-Exempt Employees:

All actual hours spent by non-exempt employees doing work for the District is counted as work time. This may include, but is not limited to, the following examples:

- (1) Work done for the District when the employee is:
 - (a) Away from his/her work site;
 - (b) On lunch or an authorized break;
 - (c) On approved vacation.
- (2) Work for the District in an extracurricular activity.

2. Compensatory Time:

a. Accumulation:

(1) Employee Agreement:

The principal/supervisor must ensure the employee has agreed to receive compensatory time off instead of overtime pay before the extra time is worked, and must maintain a record of this agreement, such as a memorandum to the employee's personnel file.

- (2) The principal/supervisor must ensure that non-exempt employees who work more than 40 eligible hours in a workweek, overtime as defined above, receive either:
 - (a) Overtime pay equal to 1 and ½ times their regular pay rate for each hour worked over 40 hours in a workweek; or
 - (b) 1 and ½ hours of compensatory time for each hour worked over 40 hours.
- (3) In order to reduce the likelihood of significant accumulation of compensatory time hours which could result in a burdensome fiscal impact on a school or department should the employee change jobs, it is recommended that employees accumulate no more than 32 hours of unused compensatory time. Any compensatory time over 32 hours must be paid to employees at 1 and ½ times their regular pay rate.
- (4) The maximum amount of compensatory time that may be accumulated is as follows:
 - (a) Non-Exempt Employees: 240 hours representing 160 hours worked times the 1 ½ overtime provision;
 - (b) Public Safety Employees: 480 hours representing 320 hours worked times the 1 ½ overtime provision;

- b. **Use:**
Principals/Supervisors must ensure the following requirements are met with respect to employees' use of compensatory time:
 - (1) Compensatory time should be used by employees within the school year in which it is earned, so that a large amount of compensatory time does not accumulate;
 - (2) An employee requesting to take previously earned compensatory time off will be permitted to do so within a reasonable period of time after making the request and Principals should review the guidelines for critical days (Administrative Rule GARH-R [Leaves and Absences]) prior to denying a request for compensatory time;
 - (3) Use of compensatory time will not result in a reduction of the employee's wages.

c. **Payment for Compensatory Time:**

(1) **End of Employment:**

At the end of an employee's employment by the District, the employee will be paid for any earned but unused compensatory time at a rate equal to the higher of:

- (a) The average regular rate earned by the employee during the last three years of employment; or
- (b) The final regular rate earned by the employee upon termination of employment.

(2) **Change of Assignment:**

If an employee changes from a non-exempt to an exempt job, or if an employee changes from one non-exempt job to another non-exempt job for another principal/supervisor, then the employee will be paid for any earned but unused compensatory time at the employee's then current rate of pay. Such payment will come from the budget of the school/department/division in which the time was worked.

3. **Coaching:**

- a. Principals who are considering employing a non-exempt employee as an assistant coach should first confer with:
 - (1) The Employment Office to assure that proper paperwork requirements are met prior to employment; and
 - (2) The Compensation Office, Human Resources, and the Payroll Department, Financial Services, to assure pay provisions are correctly established and understood by the Principal prior to the coach's employment.
- b. Failure to follow the above procedures prior to the employment of a non-exempt employee as an assistant coach may prevent the individual's employment in the coaching position.

4. **Volunteering:**

Non-exempt employees:

- a. May not volunteer to perform work for the District without pay unless all of the following requirements are satisfied:
 - (1) The employee is volunteering freely without pressure to perform any volunteer services for the District;
 - (2) The employee is not receiving any compensation for any volunteer services for the District; and
 - (3) The employee is not volunteering to perform services that are identical or similar to the services that they are hired by the District to perform.
- b. May volunteer as parents/guardians to support their children's school activities.

E. HOLIDAY PAY:

The District has also approved holiday pay as provided in Administrative Rule GBA-R (Compensation Guides and Contracts).

Adopted: 2/8/06; 8/12/09

Revised and recoded: 7/19/12 (Previously coded as Administrative Rule GBCB)

Legal Reference

O.C.G.A. 34-04-0003 Minimum wage amount

O.C.G.A. 34-04-0003.1 Wages and employment benefits by local government entities
O.C.G.A. 34-04-0005 Employer's records of hours worked by and wages paid to employees
O.C.G.A. 34-04-0006 Action to recover difference where employee paid less than minimum wage
O.C.G.A. 34-04-0001 Georgia Minimum Wage law - short title
29 USC 213 Fair Labor Standards - Exemptions
29 CFR Part 778 FLSA Regulations - Overtime Compensation
29 USC 207 Maximum hours
29 USC 206 Minimum wage