

FAIR LABOR STANDARDS ACT FOR SCHOOL DISTRICTS

C.1 - OVERTIME POLICY:

The purpose of this policy is to ensure that the Summers 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. All employees of the Board are expected to work a forty-hour workweek each week.
- 1.2. 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 perform additional duties up to 40 hours during a workweek without additional compensation.
- 1.3. The length of the school day for licensed and professional staff will be a minimum of seven and one-half hours and will continue until professional responsibilities to students are completed.
- 1.4. Work schedules for all other employees will be defined by the superintendent or, his/her designee, and will be consistent with the Fair Labor Standards Act, West Virginia statutes, and provisions of this policy.
- 1.5. 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. Monday and ending at 11:59 p.m. Sunday.
- 2.2. Working hours for all non-exempt employees of the Board under the Fair Labor Standards Act, including paraprofessionals, aides, secretaries, bus operators, and cafeteria, janitorial and maintenance personnel, will conform to federal and state regulations. The classification of all employee positions as to exempt or non-exempt are defined in the Guide to the Fair Labor Standards Act for West Virginia School Districts as published by the West Virginia Department of Education Office of School Finance.

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.
- 3.2. Non-exempt employees who have not been granted prior approval by 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 actions, up to and including dismissal.

4. TIME AND ATTENDANCE REPORTS:

- 4.1. Every employee classified as a service 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.

4.2. Employees classified as professional personnel are not required to file weekly time sheets, but must indicate days present and absent on the payroll report and initial the report.

5. OVERTIME AND COMPENSATORY TIME:

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

5.1. A non-exempt employee shall not work overtime without the expressed written approval of a **Central Office Administrator**. The request must be submitted in writing using the appropriate form. 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 a **Central Office Administrator**, 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, if such compensatory time (1) is agreed to by the employee in writing before the overtime work is performed and (2) is authorized by a **Central Office Administrator**.

5.5. Employees will be allowed to use compensatory time within a reasonable period after requesting such use. Employees may accrue a maximum of 120 compensatory time hours (80 hours of actual work).

5.6. All compensatory time earned must be used within 60 days after being earned and any compensatory time earned must be used before any personal, annual, or leave without pay is used. Any compensatory time that is not used within this time will be paid at the employee's current rate.

5.7. 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, 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.

5.8. Pursuant to the provisions of West Virginia Code §18A-4-8a(6), any service 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.

5.9. Pursuant to the provision of West Virginia Code §18A-4-8a(7), any full-time service 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.

5.10. Pursuant to the provision of West Virginia Code §18-4-8(e), an employee whose regular workweek 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.

5.11. Upon resignation, retirement, or termination, an employee will be paid for any unused compensatory time at a rate of compensation not less than: (A) the average regular rate received by such employee during the last three

years of the employee's employment; or (B) the final regular rate received by such employee, whichever is greater.

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 ¼ 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 forty. This method is **available for hourly workers only and before it can be used, the employer and employee must agree (prior to the additional work being performed).**

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.

SAMPLE AGREEMENT TO RECEIVE COMPENSATORY TIME OFF:

Employee name: _____

Pursuant to the Fair Labor Standards Act (FLSA), the Summers 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. I have received, read, and understand the Board Policy IV-M-3 dated _____.

I must obtain express written approval of a **Central Office Administrator** to work overtime prior to working an excess of 40 hours in any workweek. I will earn compensatory time at a rate of one and one-half (1.5) hours for each hour of overtime worked. I may accumulate a maximum of 120 hours of compensatory time (80 hours of actual overtime work). I must take the time earned within 60 days of having earned it. I must take the time before using any personal leave, annual, or leave without pay. If, due to work requirements, I am unable to use all compensatory time as agreed, then I will receive compensation for the unused compensatory time at my current regular hourly rate of pay, but may be disciplined for failure to comply with the Board's overtime policy.

I do 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 shall continue in force until terminated.

Employee's Signature

Date

Supervisor Signature (or designee)

Date

I do hereby decline to accept compensatory time off for any overtime I may work.

Employee's Signature

Date

Supervisor Signature (or designee)

Date