

REFERENCE COPY

FILE: GDBBGBA
Critical

EXPLANATION: EXEMPT AND NONEXEMPT EMPLOYEES

MSBA is updating policies related to employee compensation in this update based on questions received from districts and the results of some recent school district audits. Because compensation for overtime and the use of compensatory (comp) time are frequent topics of inquiry from school districts, MSBA is making changes to this policy as well. The title and code changes are intended to better reflect the scope of this policy.

Currently, MSBA has two versions of this policy: one for districts that use comp time and one for districts that do not. However, many districts use comp time for some nonexempt staff but not others. For example, the district might use comp time for its clerical employees but pay overtime for its maintenance and janitorial employees because it is difficult to give these employees leave. For this reason, MSBA has combined the two versions. The policy now establishes that all employees will be paid for overtime work unless their position is designated as a position for which comp time is awarded.

FLSA

New Fair Labor Standards Act (FLSA) regulations that take effect later in 2016 will impact some exempt employees in the district.

Under the FLSA, all employees are classified as exempt or nonexempt. Perhaps the biggest difference between exempt and nonexempt employees is that exempt employees are not eligible for overtime pay regardless of how many hours per week they work. Nonexempt employees must be paid time and one-half of their regular hourly rate of pay for each hour worked in excess of 40 in a workweek, unless the district uses comp time. Nonexempt employees are also required to log their time worked, and the district is required to maintain this information to prove that the employee did not work more than 40 hours in a workweek or was paid overtime or provided comp time.

There are four types of exempt employees: administrative, executive, professional and computer. The administrative and executive employee exemptions are defined by the duties of the employee's position and how much the employee is paid.

The new regulations change part of the test for determining whether an employee qualifies as an administrative or executive employee. Exempt employees must be paid on a salary basis, as opposed to an hourly basis, and most exempt employees must be paid a minimum amount. Currently, in order to qualify for the administrative or executive exemption, employees must be paid a salary of at least \$455 per week. Under the new regulations, an employee could not be classified as exempt under the administrative or executive exemption unless the employee

is paid no less than \$913 per week. Further, the new regulations require that, beginning January 1, 2020, and every three years thereafter, the minimum salary necessary to qualify for the administrative or executive exemption be adjusted to reflect changes in wage rates.

This change will not impact certified staff such as teachers or principals since there is a special exemption for these employees.

Some districts have designated employees such as transportation directors, food service and maintenance supervisors, and some central office clerical staff as exempt under the administrative or executive exemption. These are the types of positions most likely to be impacted by the new regulations. If the district has staff designated as exempt who do not qualify under the professional exemption and who do not meet the new salary requirements, the district may either raise the salaries to maintain the employee's exempt status or start tracking employee hours and paying overtime or compensatory time.

<i>MSBA recommends that copies of this document be routed to the following areas because the content is of particular importance to them. The titles on this list may not match those used by the district. Please forward copies to the district equivalent of the title indicated.</i>				
X	Board Secretary	X	Business Office	Coaches/Sponsors
	Facility Maintenance		Food Service	Gifted
X	Human Resources		Principals	Library/Media Center
	Health Services		Counselor	Special Education
	Transportation		Public Info/Communications	Technology

REFERENCE COPY

FILE: GDBBGBA
Critical

EXEMPT AND NONEXEMPT EMPLOYEES SUPPLEMENTARY PAY PLANS *(District Uses Compensatory Time)*

Definitions

Compensatory (Comp) Time – Time off awarded to nonexempt employees at the rate of one and one-half times the number of actual hours worked in excess of 40 in a workweek.

Exempt Employees – Those employees whose duties and compensation meet the requirements to be an exempt executive, administrative, professional or computer employee as defined in federal law and who are not eligible for overtime compensation or compensatory time.

Hours Worked – For the purposes of this policy, hours worked means all hours during which the individual is required to be on duty—generally from the required starting time to normal quitting time—and all hours an employee is permitted to work, in accordance with law. Meal periods of 30 minutes or longer and break periods of 20 minutes or longer do not count as hours worked as long as the employee is relieved of all duties and is free to leave his or her duty post. Breaks for nursing mothers to express breast milk are also not considered as hours worked.

Nonexempt Employees – This includes all district employees not specifically identified as exempt under federal law. This generally includes noncertificated staff; however, in some circumstances noncertificated staff members may qualify for exempt status. The Board directs the superintendent to ensure that job positions are classified as exempt or nonexempt and that employees are made aware of these classifications. Employees in doubt about their status should contact their immediate supervisor.

Overtime – Actual hours worked in excess of 40 hours in a workweek.

Compensation

Exempt and nonexempt employees will be compensated in accordance with the applicable Board policy. Unless otherwise permitted by law, exempt employees will be compensated on a salary basis. Nonexempt employees may be compensated on either a salary or hourly basis, although amounts paid for overtime work and deductions for unpaid leave will be calculated using an employee's regular hourly rate of pay. The district will comply with minimum wage laws, when applicable.

All nonexempt employees are required to complete a daily time record showing actual hours worked. Supervisors of nonexempt employees must verify the accuracy of such records on a weekly basis. Failure to maintain or verify such records or falsification of these records will be grounds for disciplinary action.

Overtime Compensation

The following provisions apply to nonexempt staff who work more hours each workweek than the regular hours specified as a requirement of their job by the employee's immediate supervisor:

- ~~1. Unless the district and the employee have an agreement or understanding in advance that the employee will be given compensatory (comp) time off for overtime work, he or she will be paid one and one-half times his or her regular rate of pay for each hour worked over 40 hours within each workweek.~~
~~Unless the district and the employees have an agreement or understanding in advance that the employee will be given comp time off for overtime work, he or she will be paid one times his or her regular rate of pay for each hour worked over the time specified as the employee's current job requirement, but less than 40 hours within each workweek.~~
2. The Board discourages overtime work by nonexempt employees. A nonexempt employee shall not work overtime without the express approval of his or her supervisor. Nonexempt employees who begin work earlier or work later than their assigned hours without prior authorization from their immediate supervisor are subject to discipline, including termination.

Unless a nonexempt employee works in one of the classifications listed in the "Comp Time" section of this policy, he or she will be paid one and one-half times his or her regular rate of pay for each hour of overtime.

Compensatory Time

The district uses comp time in lieu of overtime compensation for all nonexempt employees:

This policy constitutes an agreement or understanding in advance that these employees will be given comp time off for overtime work. Employees will be awarded such comp time off at the rate of one hour for each hour worked in excess of their current job requirement up to 40 hours. Employees will be awarded such comp time off at the rate of one and one-half hours for each hour worked in excess of 40 hours.

The following provisions apply to comp time:

1. Comp time may be accrued up to 40 hours earned. Overtime work beyond this maximum accrual will be monetarily compensated or comp time awarded at the rate of one hour for each hour worked in excess of the employee's job requirement up to 40 hours each workweek and at the rate of one and one-half hours for each hour of overtime worked in

REFERENCE COPY

FILE: ~~GDBB~~GBA
Critical

excess of 40 hours. All comp time must be used by the end of the school year; unused comp time does not accumulate. Each employee will be monetarily compensated for all unused comp time at the end of each school year. The district may require an employee to use accrued comp time to avoid excessive accumulation or monetary liability.

2. Every effort will be made to permit the use of comp time at a time mutually agreed upon by the individual and his or her supervisor. However, when the individual's absence would unduly disrupt the district's operations, the district retains the right to postpone comp time usage.
3. Upon leaving the district, individuals will be paid for any unused comp time at the rate of one hour for each hour worked in excess of the employee's job requirement up to 40 hours each workweek and at the rate of one and one-half hours for each hour of overtime worked in excess of 40 hours.

Individuals covered by this policy are required to complete a daily time record showing actual hours worked. Failure to maintain or falsification of such records may be grounds for disciplinary action.

Required Breaks

In accordance with law, the district will provide a reasonable break time for an employee to express milk for her nursing child each time the employee has a need to express for one year after the child's birth. The district will provide a location, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public that employees may use to express milk.

* * * * *

Note: The reader is encouraged to check the index located at the beginning of this section for other pertinent policies and to review administrative procedures and/or forms for related information.

Adopted: 08/08/1994

Revised: 01/12/2004; 12/12/2005; 05/09/2011;

Legal Refs: Fair Labor Standards Act, 29 U.S.C. §§ 201 - 216
Garcia v. San Antonio Metro. Transit Auth., 469 U.S. 528 (1985)

Camdenton R-III School District, Camdenton, Missouri