

## Overtime

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### Applicability

This policy shall apply to all employees of LSS. SSP employees will follow the Department of Education's Overtime Policy.

### Executive Order NO. BJ 2012-2

In accordance with Executive Order No. BJ 2012-2, the following employees are not eligible to earn compensatory leave:

- Unclassified appointees who are appointed by the State Superintendent to serve on the Superintendent's executive staff
- Student employees, as defined under the Civil Service Rules
- Temporary, intermittent, or seasonal employees
- Unclassified officers or employees who set their own work schedules, except for overtime work which the appointing authority judges to be extraordinary and which the appointing authority closely monitors

Employees in these categories who are non-exempt under FLSA (see below), and who actually work more than 40 hours in a workweek, must be paid for the overtime worked, in accordance with FLSA.

It is the policy of SSD to comply with Executive Order BJ 2012-2, and any future Executive Order governing leave in the unclassified service. If this provision is not included in a future Executive Order governing leave in the unclassified service, the Appointing Authority may determine whether these categories of employees may earn compensatory time.

### Definitions

**FLSA Designation** – The Fair Labor Standards Act (FLSA) classifies employees into two groups, exempt and non-exempt. Some employees, including executives, administrators, and professionals, are exempt from FLSA coverage and are not entitled to compensation for overtime under the federal law. Employees in these positions must meet salary and job duty tests to be classified as exempt from the FLSA. Exempt employees *may* be compensated for overtime at a straight hourly rate; non-exempt employees *must* be compensated for overtime at a rate of time and one-half, when they actually work more than 40 hours in a workweek. FLSA and Civil Service Rules provide that employees may be compensated by "compensatory leave" (K-time), which is time off, in exchange for the overtime hours worked. Human Resources will designate positions as exempt or non-exempt based on the duties assigned to the position.

**Hours Worked** – also refers to a portion of an hour worked

## **Overtime –**

FLSA Overtime — any hour (or portion thereof) actually worked over 40 hours in a workweek

State Overtime — any hour (or portion thereof) worked in excess of the regular workday or workweek, or during a holiday or closure, when the employee does not actually work in excess of 40 hours in the workweek

## **Compensatory Leave or “K-time” —**

Leave earned by working overtime

**Straight-time Compensatory Leave** is earned hour-for-hour for the number of hours worked

**Time and One-half Compensatory Leave** is earned in excess of the number of hours worked; for example, an employee who works 1 hour of overtime earns 1.5 hours of K-time. Time and one-half compensatory leave is earned by non-exempt employees who actually work more than 40 hours in a workweek and may be earned when preparing for, responding to, or recovering from an anticipated or actual emergency or disaster.

## **Policy**

It is the policy of SSD that:

- Employees may be required to work overtime.
- School and Division Directors will monitor overtime and will manage staffing and projects in order to avoid excessive overtime.
- No employee will earn overtime without supervisory approval and/or direction. Approval for overtime must be approved in advance and in writing by the LSS Superintendent. If overtime is required in an emergency or unforeseen situation when the LSS Superintendent is not available, the employee may obtain verbal approval from the School or Division Director and obtain written approval as soon as possible.
- A non-exempt employee who works overtime without advance approval will be compensated for the overtime worked; however, the employee may also be subject to disciplinary or other corrective action for working overtime in violation of this policy.
- Non-exempt employees will be compensated in accordance with FLSA and Civil Service Rules.
- Exempt employee hours worked in excess of the regularly scheduled work hours **may** be compensated with straight-time compensatory leave, subject to approval.
- When an employee is approved for annual leave, the payroll system automatically uses the employee’s time and one-half compensatory leave and then straight-time compensatory leave

before using annual leave or voluntary leave without pay. However, an employee whose absence is designated as FMLA may not use time and one-half compensatory leave during the FMLA absence.

- A supervisor may, at any time, require employees to take all or part of their compensatory leave. However, an employee whose absence is designated as FMLA may not use time and one-half compensatory leave during the FMLA absence.
- All or part of a balance of compensatory leave may be paid to employees at the discretion of the Appointing Authority at any time, depending on available budget.

#### **Overtime – Compensation for Hours Worked/Limit on Accrual of Compensatory Leave**

- Overtime will be compensated with compensatory leave, unless required by FLSA, or specifically approved by the LSS Superintendent.
- Non-exempt, full-time employees who work State Overtime, but who do not work over 40 hours in the workweek will be compensated with straight-time compensatory leave.
- Compensatory leave will be accrued and used in the same increments as annual and sick leave. Minutes may be accumulated at the end of the workweek.
- Employees at the level of Director may earn compensatory leave only after actually working in excess of 45 hours in a workweek, and may be compensated beginning at the 46<sup>th</sup> hour. The LSS Superintendent may grant exceptions in extraordinary circumstances.
- Non-exempt employees who work FLSA Overtime shall be compensated with time and one-half compensatory leave for each hour actually worked over 40 until the balance of time and one-half compensatory leave reaches 240 hours. When the 240-hour cap is reached, overtime hours that exceed 240 will automatically be paid to the employee.
- Compensatory leave earned hour-for-hour may be accrued in excess of 360 hours, but no more than a total of 360 hours may be carried forward from one fiscal year to the next. Straight compensatory leave balances in excess of 360 hours will be paid to non-exempt employees within 90 days of the beginning of the fiscal year, and either paid (in whole or in part) to exempt employees or cancelled within 90 days of the beginning of the fiscal year.
- Exempt employees who work overtime may be compensated for overtime hours worked with straight-time compensatory leave, with approval as required by this policy.
- The LSS Superintendent may provide that State Overtime be compensated at the time and one-half rate when:
  - An exception has been granted by the Civil Service Commission,
  - It is performed during official closures due to emergency situations,
  - It is performed to prepare for, respond to, or recover from an anticipated or actual emergency or disaster, or

- It is performed on a holiday.
- Employees may be paid for overtime worked, rather than receiving compensatory time, at the discretion of the Appointing Authority, when the overtime is performed to prepare for, respond to, or recover from an anticipated or actual emergency or disaster.

#### **Overtime – Recording Overtime Hours**

- Written authorizations for overtime requests may exist in different forms, i.e., memo, letter or email. The document must be attached to the employee(s)' timesheet(s) and contain:
  - The purpose/justification for the overtime,
  - An explanation of the nature of the work performed, if the overtime was performed to prepare for, respond to, or recover from an anticipated or actual emergency or disaster
  - The name(s) and job title(s) of the employees authorized to work overtime,
  - The dates or periods of time the overtime was expected to be worked (except in an emergency or unforeseen circumstance) and actually worked, and
  - The supervisor's signature.
- Employees must record overtime hours daily on timesheets to show the number of hours worked in excess of the regular work hours.

#### **Overtime – Compensation for Meal Periods**

Non-exempt employees are to be completely relieved of all duties during the lunch period. When a nonexempt employee is required or allowed to perform any duties during the meal period, that time is considered working time and is subject to overtime compensation. For this reason, nonexempt employees must **not** be allowed to eat lunch at their desks, and supervisors who become aware that non-exempt employees are working through lunch are to take action to stop it immediately, and report it for consideration of possible disciplinary or other corrective action.

#### **Overtime – Compensation for Work at Home**

Overtime compensation will **NOT** be permitted for work performed at home unless the employee is on leave due to Office Closure or Act of God, the employee is directed to work from home, and the Appointing Authority approves the employee's work from home.

#### **Overtime – Payment at Separation or Transfer**

- Payment Upon Transfer Within LDOE Agencies

Upon the transfer of an employee from one LDOE agency (personnel area), e.g., LDOE State Activities, Special School Programs, Louisiana Special Schools, and Recovery School District, to another LDOE agency (personnel area), the compensatory time and one-half (1.5) balance must be paid by the losing agency. The compensatory straight-time balance, however, shall transfer to the new LDOE agency.

- Payment Upon Separation or Transfer Outside of LDOE Agencies
  - **All** (exempt or non-exempt) employees with a time and one-half (1.5) compensatory leave balance will be paid at a rate equal to his/her hourly rate prior to separation or transfer.
  - **Non-exempt** employees shall be automatically paid for the remaining straight-time compensatory leave balance.
  - **Exempt** employees shall be paid eighty (80) hours of unused straight-time compensatory leave upon separation or transfer to an agency outside of the LDOE agencies. Payment for compensatory leave that exceed 80 hours may be requested and approved by the Appointing Authority based on available budget.
  - All unused straight-time compensatory leave, if not paid to the employee, shall be cancelled and shall not be re-credited upon reemployment .
  - Employees with compensatory balances transferring into an LDOE agency from an agency outside of LDOE cannot transfer the compensatory balance into the LDOE agency.
  - Compensatory leave for unclassified employees shall be paid in accordance with Executive Order BJ 2012-2, or any future Executive Order governing leave in the classified service, if the provisions of the Executive Order differ from this policy.

### **Exceptions**

Exceptions may be made to the provisions of this policy when the Appointing Authority determines it in the best interest of the agency.

### **Consequences**

Violations of this policy will not be tolerated and may be cause for disciplinary action, up to and including termination. Suspected violations or abuse of this policy shall be reported to the appropriate supervisor and/or the Human Resources Director or Administrator for review and further handling.

Any employee who fraudulently reports overtime hours earned will be subject to disciplinary action up to and including termination for payroll fraud. Violations of FLSA can result in fines and other penalties imposed by the U. S. Department of Labor.

Any questions regarding this policy or documentation requirements relative to overtime may be directed to Human Resources.