

## **THE FAIR LABOR STANDARDS ACT (FLSA) – GENERAL INFORMATION**

The Fair Labor Standards Act (FLSA) of 1938, also called “federal wage-hour law,” is a federal law which establishes standards and regulations for minimum wage, overtime pay, compensatory time, child labor, equal pay, employer deductions from pay, and recordkeeping requirements. Overall responsibility for enforcing the FLSA is assigned to the U.S. Department of Labor, with specific authority for equal pay provision delegated to the Equal Employment Opportunity Commission.

The purpose of this administrative procedure is to establish guidelines for the Lamar CISD to follow to ensure compliance with the FLSA and Board Policies DEA (LEGAL) and DEA (LOCAL).

All faculty, staff, and student employees of the Lamar CISD are covered by the FLSA, although specific provisions of the law exempt certain classes of employees from its minimum wage and overtime pay/compensatory time requirements, and the District adheres to provisions of the Act in the administration of salary, wage, and work hours for all employees. An employee’s rights under the Act may not be waived.

## **TERMS USED IN FLSA AND/OR LCISD PROCEDURES**

**Exempt vs. Nonexempt** – Exempt employees are exempted from minimum wage and overtime provisions of the FLSA. Employees are classified **exempt** if they hold positions found on the Teacher or Administrative/Professional Pay Schedules. Exempt status depends on duties and responsibilities performed and salaries paid -- **not job title**. All other employees are **nonexempt**.

**Standard Work Week** – Generally, for purposes of minimum wage and overtime payment, each work week stands alone; there can be no averaging of two or more work weeks. The District’s standard work week begins at 12:00 a.m. Sunday and ends at 11:59 p.m. Saturday. The number of hours per standard work week is 40.

**Non-Standard Work Week** – The non-standard work week is the standard work week reduced by bad weather time or day(s), holiday(s), or summer schedule. The stated number of hours in the work week will be set by administration based on the particular circumstances.

**Hours Worked** – Nonexempt employees must be compensated for all hours worked in a standard or non-standard work week. If an on-call employee is provided with a paging device, time spent “waiting” for a call **is not** considered hours worked.

**Hourly Rate or Regular Rate of Pay** – The regular pay rate for an employee is the rate paid by the hour. This is the rate agreed to by the employee upon accepting a particular position with the District. Hours worked during a standard (up to 40) or a non-standard (stated number of hours) are paid at this rate.

**Weighted Average Rate** – The regular rate of pay will be a **weighted average rate** if an employee holds two or more positions with the District simultaneously, works hours in excess of 40 in a standard or non-standard work week, and is compensated for the overtime.

**Premium Rate / Overtime Pay** – Overtime will be paid at a rate of at least one and one-half times the employee's regular or weighted average rate of pay (premium rate) for each hour worked in a work week in excess of the stated number of hours in the standard or non-standard work week. **Overtime hours worked in a week that includes one or more holidays will be paid at the premium rate for essential personnel and/or in emergency situations as designated by the Superintendent.**

### **TIME FORM PROCEDURES**

All nonexempt employees are to accurately record **time** worked on the appropriate form(s) on a daily basis. Exempt employees are to use the weekly time sheet to report **days** worked. All completed time forms are to be sent to the Payroll Department by the Wednesday following the work week reported. For the forms to be considered complete, all applicable attachments must be included with the time forms to which they apply. Any incomplete forms will be returned to the campus/department for correction prior to payment for overtime hours.

If supervisors approve any staff dismissal before the end of normal work hours, nonexempt employees are to use personal business or compensatory time (or docked time-short) for any time short for the respective day or days. This includes but is not limited to, early release days (whether before a holiday or during testing weeks), and bad weather related incidents (hurricane, winter storms, etc.).

Each work week begins at 12:00 a.m. Sunday and ends at 11:59 p.m. Saturday. Hours entered are to be recorded at the nearest 5-minute interval only. For example, if leaving at 2:33 p.m., the time will be logged as 2:35 p.m.

Any daily overtime of fifteen (15) minutes or less shall be discouraged.

Total hours and minutes will be calculated for each day and week reported. Actual time worked for the work week will be rounded to the nearest 1/4 hour, per the following table, at the end of each work week:

0, 5	Minutes: Report as an even hour (rounded down)
10, 20	Minutes: Report as 1/4 hour
25, 35	Minutes: Report as 1/2 hour
40, 50	Minutes: Report as 3/4 hour
55	Minutes: Report as an even hour (rounded up)

Recording of in and out times will be required for lunch. Per the FLSA, the District is not required to provide paid breaks for administrative employees. However, the recording of in and out times for breaks in excess of 15 minutes must be recorded.

**OTHER EMPLOYEE ABSENCE, OR “THE TWO-HOUR RULE”**

“The Two-Hour Rule” has been abolished. All time must be accounted for as set forth in these guidelines.

**APPROVAL FOR EXTENDED WORK SCHEDULES**

**Any extension of the regular work schedule must be approved in advance by the immediate supervisor. Continued extensions must be reported by the supervisor, on a timely basis, to the Superintendent/Deputy Superintendent in charge of the campus/department.**

With prior approval of immediate supervisor, hours may be worked in excess of the standard or non-standard work week. The employee may either accrue compensatory time or receive payment for hours in excess of the standard or non-standard work week.

Payment for hours in excess of the standard or non-standard work week may be requested by submitting the approved overtime payment form with the time sheet for the period. Overtime hours may not be split between payment and compensation time (“comp time”) during the same week. **Total overtime hours will be limited to eight (8) hours per week, except in emergencies.** An “**emergency**” will be defined by the supervisor in charge and must be approved by the Superintendent or designee, but will **never** include excess overtime for recurring, ordinary, or services capable of being scheduled in advance. The supervisor must document/explain all situations designated as emergencies and retain the documentation for audit purposes. “Emergency” must be noted on the time form.

**PAY CALCULATION EXAMPLES**

**Example for Regular Pay:**

Ann Smith is employed as a classroom aide. She earns \$6.00 per hour, and has worked 40 hours for the current work week. Her total wages are \$240.00, computed as follows:

$$40 \text{ hours} * \$6.00 \text{ per hour} = \$240.00$$

**Example for Regular Pay, with overtime paid at the “Premium Rate”:**

Bob Green is employed as a bus driver. He earns \$10.00 per hour, and has worked 45 hours for the current work week. His total wages are \$475.00, calculated as shown below:

Straight Time Earnings	\$400.00	Represents 40 hrs. at Regular Rates
Premium Pay (\$10.00 * 5 hrs. * 1.5)	<u>75.00</u>	Represents 5 hrs. at the Overtime Rate
<b>Total Pay</b>	<b>\$475.00</b>	

**Example for an employee holding more than one position in the school district, where both are nonexempt positions according to FLSA definitions, and where the employee works exactly 40 hours in the workweek:**

COMPENSATION AND BENEFITS:  
SALARIES AND WAGES

REGULATION  
DEA

Jane Jones is employed as both a classroom aide and a bus driver. She earns \$6.50 per hour for aide duties and \$10.00 per hour for bus driving. Ms. Jones works Monday through Friday, 5 hours per day as an aide, and 3 hours per day as a bus driver.

Jane Jones' pay for the workweek is \$312.50, computed as follows:

Aide:	5 days * 5 hours * \$ 6.50 =	\$162.50
Bus Driver:	5 days * 3 hours * \$10.00 =	<u>\$150.00</u>
	<b>Total Pay</b>	<b>\$312.50</b>

**Example for Weighted Average Rate of Pay, for an employee holding more than one position in the school district, where both are nonexempt positions according to FLSA definitions, and where the employee works more than 40 hours in the standard workweek:**

**NOTE:** If an employee works more than 40 hours at two different jobs (and is paid different hourly rates for each), then the employee's regular rate is the weighted average of such rates for that week.

Ms. Jones worked the same schedule as above for Monday through Friday; however, she also drove the bus 6 hours on Saturday for an extracurricular trip. Jane Jones' pay for the week is \$396.80, computed in Steps 1-3 as follows:

**Step 1: Calculation of Gross Earnings/Regular Pay for the Workweek:**

Aide:	5 days * 5 hours * \$ 6.50 =	\$162.50
Bus Driver:	5 days * 3 hours * \$10.00 =	<u>\$150.00</u>
	<b>Total Pay</b>	<b>\$312.50</b>

**Step 2: Calculation of Weighted Average Rate:**

Regular Pay for 40 hours (from Step 1)	\$312.50
Regular Pay for Saturday (6 hrs.)	<u>60.00</u>
<b>Total Pay</b>	<b>\$372.50</b>
Divided by total hours worked	<u>46</u>
<b>Weighted Average Rate</b>	<b>\$ 8.10</b>

**Step 3: Calculation of Total Pay:**

Total Pay (from Step 2, Page 4)	\$372.50
"Premium" portion for 6 hours of overtime (\$8.10 * 6 * .5)	<u>24.30</u>
<b>Total Pay</b>	<b>\$396.80</b>

**REPORTING OF OVERTIME HOURS**

The following examples illustrate possible work week scenarios. The overtime hours listed represent hours paid at the "premium" overtime rate.

								<u>Overtime Hours</u>
<b>EXAMPLE 1:</b>	<u>S</u>	<u>M</u>	<u>T</u>	<u>W</u>	<u>Th</u>	<u>F</u>	<u>Sa</u>	
	0	8	8	8	8	8	<u>8</u>	8
<b>EXAMPLE 2:</b>	<u>S</u>	<u>M</u>	<u>T</u>	<u>W</u>	<u>Th</u>	<u>F</u>	<u>Sa</u>	
	0	V	8	8	8	8	<u>8</u>	8
<b>EXAMPLE 3:</b>	<u>S</u>	<u>M</u>	<u>T</u>	<u>W</u>	<u>Th</u>	<u>F</u>	<u>Sa</u>	
	0	H	8	8	8	8	8	8
<b>EXAMPLE 4:</b>	<u>S</u>	<u>M</u>	<u>T</u>	<u>W</u>	<u>Th</u>	<u>F</u>	<u>Sa</u>	
	0	8	8	8	8	NWD	8	0

For weeks with sick/personal days and/or vacation days, total hours **reported** in excess of forty (40) will be paid at the premium rate. Hours for these days will count toward the 40-hour work week; therefore, total hours in excess of forty (40) will be paid at the **premium rate**. Compensatory time hours reported will be counted in the same manner as non-work days.

### OCCASIONAL AND/OR SEASONAL WORK

When a **nonexempt** employee works more than 40 hours during a work week, on an occasional or seasonal basis, for the same public agency, and in a different capacity from their regular employment, the hours worked in the different jobs shall not be combined for the purpose of determining overtime liability. An activity does not fail to be “occasional” merely because it is recurring – as long as the work is not performed regularly throughout the year. **In contrast**, for example, if a tax office clerk, in addition to his or her regular job, also **regularly** works additional hours on a part-time basis (e.g., every week or every other week) at a food/beverage center operated by the same agency, the additional work **does not** constitute intermittent and irregular employment and, therefore, the hours worked **would be combined in computing any overtime compensation due**.

### COMPENSATORY TIME -- FOR NONEXEMPT EMPLOYEES ONLY

The FLSA provides an element of flexibility for state and local government employers and choice for their employees regarding compensation for statutory overtime hours. The law authorizes a public agency to provide compensatory time (comp time) off in lieu of monetary overtime compensation, at a rate of not less than one and one-half hours of compensatory time for each hour of overtime worked. The calculation is the same as that generally used for calculating monetary overtime.

An agreement or understanding to accumulate compensatory time must be agreed upon between the employee and supervisor **before** the performance of work. The agreement does not have to be in writing, but a record of its existence must be kept.

All time worked per week in excess of the standard or non-standard work week must be reported on the approved compensatory time form and be submitted to the Payroll Department with the time sheet to which it applies.

**A maximum of sixty (60) hours** may be maintained in an employee's compensatory time bank. Employees who are employed in a safety sensitive position and for 251 days or more per year may accrue up to one hundred and twenty (120) hours in their compensatory time bank. All other employees may accrue a total of sixty (60) hours in their compensatory time bank. Payment will be made for compensatory hours earned on a campus/in a department prior to an employee's transfer to another campus/department or termination from the District. The immediate supervisor must be given two (2) days prior notice before any compensatory time is taken, except in certain emergency situations approved by the supervisor.

**NOTE:** Once an employee has reached the maximum number of hours accrued, no additional time can be accumulated until the current hours have dropped below the maximum, either through use or payment.

#### **EXEMPT EMPLOYEES AND "FLEX-TIME"**

Effective January 2007, the accrual or use of flexible time for exempt employees is ONLY permitted when additional hours have been worked in a Non-Standard work week where the number of hours in the week has been reduced by bad weather or holiday(s). The campus administrator, director or department supervisor has the discretion to extend the hours as needed.

#### **SUMMER SCHEDULE**

Exempt and non-exempt employees are to sign in and out as per standard operating procedures. Regular hours are 9.5 hours per day and the standard work week is 38 hours. Hours worked in excess the standard work week but less than 40 hours will be paid at the regular rate of pay. Hours worked in excess of 40 hours will be paid at the overtime/premium rate. Absences will be charged in 1.25 increments.