

A. EXEMPT AND NON-EXEMPT EMPLOYEES

Certain employees are exempt from coverage under the Fair Labor Standards Act (“FLSA”) and are not subject to compensation for overtime work. Exempt employees include executive, administrative, and professional employees such as teachers, counselors, supervisors and administrators. Any employee or supervisor who is unsure if an employee is “exempt” under the Fair Labor Standards Act should contact the Superintendent or Personnel Director.

B. WORK SCHEDULES

The length of the school day for licensed and professional staff will be a minimum of seven hours and thirty minutes of time worked and will continue until professional responsibilities to the students and school are completed. Administrative meetings, curriculum development, pupil supervision, assigned duties, parent conferences, group or individual planning and extra-curricular activities may require hours beyond the stated minimum for licensed and professional staff. Work schedules for other employees will be defined by the superintendent or his/her designee, consistent with the FLSA and the provisions of this policy. Teacher assistants are hired to work a forty (40) hour work week.

C. WORKWEEK DEFINED

Working hours for all employees not exempted under the Fair Labor Standards Act (FLSA), including secretarial, cafeteria, janitorial and maintenance personnel, will conform to federal and state regulations. The superintendent shall ensure that job positions are classified as exempt or non-exempt and that employees are made aware of such classifications. Supervisors shall make every effort to avoid circumstances that require non-exempt employees to work more than 40 hours each week. For purposes of FLSA Compliance, the workweek for school system employees will be 12:00 a.m. Monday until 11:59 p.m. Sunday. A copy of the FLSA and any administrative procedures established by the superintendent will be available to employees in the human resources office.

D. OVERTIME

1. Authorization for Overtime Work: The Watauga County Board of Education (the “board”) discourages overtime work by non-exempt employees. A non-exempt employee shall not work overtime without the express approval of his/her supervisor. All overtime work must be approved by the superintendent or designee. Every supervisor responsible for the supervision of employees subject to the FLSA shall, prior to permitting any overtime work, receive authorization from the Superintendent, Associate/Assistant Superintendent, or the Human Resources Director. All supervisory personnel shall monitor overtime use on a weekly basis and report such use to the Superintendent or designee monthly. Principals and supervisors shall monitor employees’ work, shall ensure that overtime provisions of this policy and the FLSA are followed, and shall ensure that all

employees are compensated for any overtime worked. Principals or supervisors may need to adjust daily schedules to prevent non-exempt employees from working more than 40 hours in a workweek. Accurate and complete timesheets of actual hours worked during the workweek must be signed by each employee and submitted to the finance officer. The finance officer shall review work records of employees on a regular basis to make an assessment of overtime use. Overtime (or compensatory time) pay may not be waived by an agreement between the school system and the employee. Overtime pay for non-exempt employees is compensable at 1.5 times the rate of pay for any time worked in excess of 40 hours during the workweek.

2. **Unauthorized Employee Overtime Work:** Non-exempt employees who work overtime without prior approval must be allowed to claim the hours worked in accordance with the FLSA. If the supervisor determines that the work was unforeseen and emergency in nature, it should be approved. If the supervisor determines that the performance of the work was unnecessary at the time it was performed, the hours worked must be paid to the employee, but disciplinary action may be taken for failure to follow established policy. The finance officer must be notified of any unauthorized and/or emergency overtime the next business day.

3. **Supervision of Employee Work Hours and "Release Time":** Supervisors may need to adjust daily schedules to allow for "release time" to prevent non-exempt employees from working more than 40 hours in a workweek. For example, if an employee works 10 hours on Monday, that employee can be given 2 hours of "release time" at some point during the same work week to avoid the employee working in excess of 40 hours during that work week.

4. **Time Records of Non-exempt Employees.** Accurate and complete time sheets of exact time worked during the workweek shall be signed by each non-exempt employee. Each non-exempt employee is responsible for signing-in and signing-out. Supervisors and building-level principals shall review and approve each time card or time sheet and shall sign the payroll data sheet before it is submitted to the school system payroll office.

5. **Rate of Pay.** The monthly salary of any nonexempt employee paid on a salary basis shall be reduced to its hourly rate equivalent. Hours shown on timesheets for holidays, annual leave or vacation days, and sick leave do not count as hours actually worked for purposes of the overtime calculation.

E. COMPENSATORY TIME:

1. **Agreement to Accept Compensatory Time:** Pursuant to federal regulation 29 CFR 553.23(c), the acceptance of compensatory time in lieu of overtime pay in accordance with this policy, is an express condition of employment for all non-exempt employees to be earned and used in compliance with this policy. In addition, the official job application for the school system will include a statement that the acceptance of compensatory time is a condition of employment for all non-exempt employees and may be earned and used in compliance with this policy.

2. **Compensatory Time:** In lieu of overtime compensation, all non-exempt employees

shall receive compensatory time off at a rate of not less than one and one-half hours for each one hour of overtime worked, if such compensatory time (1) is agreed to by the employee before the overtime work is performed and (2) is authorized by the immediate supervisor. Employees must be allowed to use compensatory time within a reasonable period after requesting such use (see policy 7510, Leave). Supervisors shall arrange for employees to take compensatory time before the end of the pay period following the pay period in which it was earned. Exceptions may be made in cases where doing so significantly interferes with fulfilling critical operations of the school system. Employees may accrue a maximum of 240 compensatory time hours before they must be provided overtime pay at the appropriate rate. In addition, upon leaving the school system, an employee must be paid for any unused compensatory time at the rate of not less than the higher of (1) the average regular rate received by the employee during his or her last three years of employment or (2) the final regular rate received by the employee.

Non-exempt employees whose workweek is less than 40 hours will be paid at the regular rate of pay for time worked up to 40 hours ("gap time".) Such employees will be provided overtime pay or compensatory time as provided above for working more than 40 hours in a workweek.

F. ATTENDANCE EXPECTATIONS

All employees are expected to be present during all working hours. Absence without prior approval, chronic absences, habitual tardiness or abuses of designated working hours (including unauthorized overtime) are all considered neglect of duty and will result in disciplinary action up to and including dismissal.

G. RECORDKEEPING

The Superintendent shall require all records on wages, hours, and other items listed in the recordkeeping regulations (29 CFR 615) to be kept by the business office for the time specified by the FLSA.

Legal References: The Fair Labor Standards Act of 1938, as amended, 29 U.S.C. 201, *et seq.*; G.S. 115C-47(18), -288, -307; *North Carolina Public School Personnel Employee Salary and Benefits Manual* (most current version), North Carolina Department of Public Instruction, Division of School Business, available at <https://www.dpi.nc.gov/districts-schools/district-operations/financial-and-business-services/compensation-public-school-employees>

Cross References: Leave (policy 7510)

Adopted: December 14, 2015

Replaces: Policy 3.01.50, Workday, Overtime, Compensatory Time and policy 3.08.60, School Day

Revised: November 13, 2017; September 14, 2020 (Legal references only)