

## **SECTION 280 – HOURS OF WORK, OVERTIME AND COMPENSATORY TIME OFF**

### **281 DEFINITION OF WORKWEEK AND WORKDAY**

#### **281.1 NORMAL WORKWEEK AND WORKDAY & GENERAL PROVISIONS**

The normal workweek of a classified employee as defined in Education Code section 88026 shall be forty (40) hours a week. The workday shall be eight (8) hours. These provisions do not restrict the extension of a regular workday or workweek on an overtime basis when such is necessary to carry on the business of the District.

#### **281.2 ALTERNATIVE WORKWEEK**

The Governing Board of the District may establish alternative workweeks in excess of eight (8) hours per day with the concurrence of the employee organization, or in the absence of an employee organization, the concurrence of the affected employee. If the Governing Board establishes a workday in excess of eight (8) hours per day, the overtime rate shall be paid for all hours in excess of the established workday or forty (40) hours per week. (Ed. Code, § 88040.)

#### **281.3 REGULAR WORKDAY LESS THAN EIGHT HOURS BUT MORE THAN SEVEN HOURS**

The Board may approve a regular workday of less than eight (8) hours but more than seven (7) hours and a workweek of less than forty (40) hours but more than thirty-five (35) hours for classified positions. (Ed. Code, § 88027.)

#### **281.4 FLUCTUATING DAILY SCHEDULE**

Specific classes, such as police, may have a fluctuating schedule on a daily basis due to the demands of the job when approved by the Board and the Personnel Commission. (Ed. Code, § 88026.)

#### **281.5 REGULAR PART-TIME POSITIONS**

The Board may also establish regular part-time positions with an assigned workday of less than seven (7) hours and a workweek of less than forty (40) hours. Overtime provisions may apply on the sixth or seventh day following the workweek. (Ed. Code, § 88030.)

### **282 DEFINITIONS OF SHIFTS**

The workday may begin at any hour of the day. When the major portion of the workday for a position falls between 5:00 p.m. and 12:00 midnight, the position shall be designated as a “swing shift” position. When the major portion of the workday falls between 12:00 midnight and 8:00 a.m., the position shall be designated as a “graveyard shift” position. A “split shift” is one in which there is a break of more than one (1) hour between the employee’s assigned working times. Employees assigned full-time or part-time positions meeting shift requirements shall be paid the salary differential approved for the shift on the applicable salary schedule. Personnel on a split shift shall receive the differential for each hour in the total shift—not just the first or second part.

### **283 OVERTIME AND COMPENSATION**

#### **283.1 OVERTIME AND COMPENSATION FOR EMPLOYEES WORKING A REGULAR EIGHT-HOUR SHIFT FOR FIVE DAYS A WEEK**

Overtime is defined to include any time required to be worked in excess of eight (8) hours in any one day and in excess of forty (40) hours in any calendar week.

Employees, except those specifically designated as “exempt,” shall be compensated at the rate of one and one-half (1-1/2) times the regular hourly pay in the assigned classification for all overtime worked.

**283.2 OVERTIME AND COMPENSATION FOR EMPLOYEES WORKING AN ALTERNATIVE WORKWEEK**

Overtime is defined to include any time required to be worked in excess of the established alternative workday or in excess of forty (40) hours in any alternative workweek and work performed on the fifth, sixth, and seventh days of the workweek. Overtime shall be compensated for a rate equal to one and one-half (1-1/2) times the regular rate of pay. (Ed. Code, § 88027.)

When a four (4) day workweek is established, the overtime rate shall be paid for all hours worked in excess of the required workday, which shall not exceed ten (10) hours. Work performed on the fifth, sixth and seventh days shall be compensated for a rate equal to one and one-half (1-1/2) times the regular rate of pay of the employee designated and authorized to perform the work. (Ed. Code, § 88031.) (See also Section 287 – Exclusion of Positions From Overtime.)

**283.3 OVERTIME AND COMPENSATION FOR EMPLOYEES WORKING A REGULAR WORKDAY OF LESS THAN EIGHT HOURS BUT MORE THAN SEVEN HOURS AND A WORKWEEK OF LESS THAN 40 HOURS BUT MORE THAN 35 HOURS**

Overtime is defined to include all time worked in excess of the established workday and workweek and shall be compensated at the rate of one and one-half (1-1/2) times the regular hourly pay. All time worked in excess of the established workday shall be paid at the overtime rate unless the employee and supervisor agree to a temporary alternative workday/week.

Employees, except those specifically exempted by the Governing Board with the approval of the Personnel Commission (see Section 287 – Exclusions of Positions From Overtime), shall be compensated at the rate of one and one-half (1-1/2) times the regular hourly pay in the assigned classification for overtime worked in excess of the established workday and workweek.

The foregoing provisions do not apply to classified positions for which a workday of fewer than seven (7) hours and a workweek of fewer than thirty-five (35) hours has been established, nor to positions for which a workday of eight (8) hours and a workweek of forty (40) hours has been established, but in which positions employees are temporarily assigned to work fewer than eight (8) hours per day or forty (40) hours per week when such reduction in hours is necessary to avoid layoffs for lack of funds and the consent of the majority of affected employees to such reduction in hours has been first obtained. (Ed. Code, § 88027.)

**283.4 OVERTIME AND COMPENSATION FOR EMPLOYEES WORKING A FLUCTUATING DAILY SCHEDULE**

Overtime is defined to include any time required to be worked in excess of forty (40) hours in any calendar week. If such fluctuating schedule is adopted, the incumbents are exempted from overtime payment for hours worked in excess of eight (8) per day. (Ed. Code, § 88026.)

The Governing Board may, with the approval of the Personnel Commission, exempt specific classes of positions from compensation for overtime in excess of eight (8) hours in one day, provided that hours worked in excess of forty (40) in a calendar week shall be compensated on an overtime basis. This section applies only to those classes which the Governing Board and the Personnel Commission specifically find to be subject to fluctuations in daily working hours not susceptible to administrative control, such as police, but shall not include food-service and transportation classes. (Ed. Code, § 88026.)

**283.5 OVERTIME AND COMPENSATION FOR REGULAR PART-TIME POSITIONS**

Overtime is defined to include any time required to be worked in excess of eight (8) hours in any one day and in excess of forty (40) hours in any calendar week.

**1) Compensation for Employees Having an Average Workday of Four Hours or More During the Workweek**

Employees having an average workday of four (4) hours or more during the workweek shall be compensated for any work required to be performed on the sixth or seventh day following the commencement of the workweek at a rate equal to one and one-half (1-1/2) times the regular rate.

**2) Compensation for Employees Having an Average Workday of Less Than Four Hours During the Workweek**

Employees having an average workday of less than four (4) hours during the workweek shall be compensated for any work required to be performed on the seventh day following the commencement of the workweek at a rate equal to one and one-half (1-1/2) times the regular rate of pay.

**283.6 HOURS USED TO COMPUTE OVERTIME**

**1) Holidays and Other Paid Leaves of Absence**

In addition to regular hours worked, time during which an employee is excused from work because of holidays, sick leave, vacation, compensating time off, or other paid leave of absence, shall be considered as time worked by the employee. (Ed. Code, § 88027.)

**2) Rest Periods and Lunch Breaks**

The rest period(s) are counted as working time. Lunch breaks are not counted as working time provided the employee is completely relieved of all duty during such period.

**3) Time Related to Conference or Meetings Which the Employee is Required to Attend as Part of His/Her Employment**

The general rule is that time spent traveling to and from such conferences or meetings is not counted as work time except travel away from the employee's home community and during the employee's regular work hours.

**283.7 COMPUTATION OF THE REGULAR RATE OF PAY THAT IS USED AS THE BASIS FOR OVERTIME PAYMENT**

Compensation or compensatory time off shall be provided at a rate at least equal to time and one-half of the regular rate of pay of the employee designated and authorized to perform the overtime.

The regular rate of pay includes the following factors:

- 1) The current placement of employee on the salary schedule
- 2) Shift differentials
- 3) Differential for bilingual ability
- 4) Supervisory responsibility factor

The regular rate of pay for purposes of overtime computation does not include fringe benefits and employer contributions to state and federal programs, such as:

- 1) Uniform allowance
- 2) Medical insurance payments
- 3) Dental insurance payments
- 4) PERS contribution
- 5) Social Security employer contributions
- 6) Unemployment Insurance contribution
- 7) Workers' Compensation Insurance contribution

## **283.8 ASSIGNMENT OF REGULAR AND EMERGENCY OVERTIME**

### **1) Assignment of Regular Overtime**

Employees may be assigned overtime when such is necessary to carry on the business of the District. (Ed. Code, § 88026.) Overtime must be authorized in advance by the designated supervisor.

### **2) Assignment of Overtime – Emergencies**

Employees may be assigned overtime in emergencies. Emergency overtime may be assigned without prior notice.

## **283.9 PAYMENT FOR OVERTIME**

Payment for overtime will be made on the next regular paycheck provided payroll deadlines are met.

## **284 LIABILITY FOR OVERTIME**

The District is liable for all overtime work by covered employees. If the District knows or has reason to know that an employee is working overtime, it must pay overtime compensation. The promulgation of a rule or the giving a directive against overtime work does not eliminate the District's liability for payment of the overtime. However, the District may enforce the rule or directive, up to taking disciplinary action against an employee who fails to comply.

## **285 OVERTIME IN MULTIPLE ASSIGNMENTS**

When a District employee works in two different classifications during the workweek and is entitled to overtime pay, the overtime rate will be based on the weighted average of the two base rates in the classifications.

## **286 COMPENSATORY TIME OFF**

Compensatory time off in lieu of overtime payment may be granted upon the mutual agreement and arrangement between the employee and his/her supervisor. In the event mutual agreement is not possible, such overtime will be paid using the regular rate as given above in Section 283.7.

Compensatory time off when used in lieu of overtime pay must be calculated based upon the overtime rate. The compensatory time off shall be granted within twelve (12) calendar months following the month in which the overtime was worked and without impairing the services rendered by the District. (Ed. Code, § 88028.)

## **287 EXCLUSION OF POSITIONS FROM OVERTIME**

The Personnel Commission may specify certain classifications as supervisory, administrative, or executive and exclude the incumbents from overtime. The Personnel Commission shall certify that the duties, flexibility of hours, salary, benefit structure, and authority of those positions are of such a nature that they should be set apart from those positions that are subject to overtime provisions. Such positions shall be entitled to overtime pay in the event they work on a holiday. (Ed. Code, § 88029.)

If an employee whose position is exempt, and who, during their regular workweek, is required to spend more than a majority of his/her time performing non-exempt work, he/she should bring this to the attention of the Office of the Personnel Commission for review. However, in emergencies when conditions beyond the control of the District arise which threaten the safety of the employees, or a cessation of operations, or serious damage to the District's property, normally non-exempt work performed by an otherwise exempt is not included in computing the majority limitation on non-exempt work.

## **288 REST PERIODS**

Each employee shall be entitled to a fifteen (15) minute rest period approximately midway during each four (4) hour period of his/her workday. Employees may not use this time to extend lunch periods or to shorten their workday. Each employee shall receive a thirty (30) minute duty free, non-paid meal period when such employee is scheduled to work five (5) or more hours.