

**Series 3000 Personnel**

**Section 3300 Service Personnel**

**Policy 3309 Overtime/Compensatory Time for Non-Exempt Employees**

This policy is intended to ensure that overtime/compensatory time for non-exempt employees is paid in compliance with the Fair Labor Standards Act and WV Statute.

3309.1 Non-exempt employees are entitled to overtime pursuant to the Fair Labor Standards Act (FLSA). Most school service employees are considered non-exempt employees under the FLSA. The following service personnel are considered exempt: Clerk of the Works, Director/Coordinator of Maintenance, Director/Coordinator of Child Nutrition, Director/Coordinator of Custodians, Director/Coordinator of Finance, and Bus Supervisor(s).

3309.2 Overtime pay at one and one half times the regular hourly rate of pay will be paid to non-exempt employees for all hours worked over forty (40) hours in any one workweek. A workweek shall be defined as 12:00 a.m. Sunday to 11:59 p.m. Saturday. It should be understood that a non-exempt employee who normally works less than forty (40) hours per week shall be compensated at the employee's regular rate for extra hours worked up to a total of forty (40) hours worked in a week. This will be defined as additional time worked.

3309.3 All overtime and additional time worked beyond the employee's regular work day must have **prior** written approval from the Superintendent or his/her designee (as follows):

Maintenance workers must get prior approval from the maintenance supervisor.

Custodians must get prior approval from the custodial supervisor.

Cooks must get prior approval from the food service coordinator.

All other non-exempt employees must get approval from the administrative assistant in charge of support personnel.

3309.3.1 The regular workday shall be defined as follows, which includes a half-hour daily lunch period included as hours worked, as required by WV Code § 18A-4-14. Eight hour employees are given an additional half-hour for break(s) or lunch. Multi-classified personnel must comply with their highest paid classification to determine hours worked:

Accountants are contracted to work 8 hours per day  
Aides are contracted to work 6 ½ hours per day  
Auditors are contracted to work 8 hours per day  
Paraprofessionals are contracted to work 6 ½ hours per day  
Bus Drivers are contracted to work 6 hours per day  
Cafeteria Managers are contracted to work 7 hours per day  
Cooks are contracted to work 7 hours per day  
Coordinators are contracted to work 8 hours per day  
Custodians are contracted to work 8 hours per day  
Warehouse employees are contracted to work 8 hours per day  
Maintenance workers are contracted to work 8 hours per day  
Mechanics are contracted to work 8 hours per day  
Programmers are contracted to work 8 hours per day  
Secretaries are contracted to work 8 hours per day

3309.4 It is the employee's responsibility to report accurate work hours on their timesheets. Any school official who permits overtime or additional time to be worked without proper approval in advance shall be responsible for reimbursement of costs to the county office.

3309.5 A non-exempt employee on paid or unpaid leave (such as sick leave, personal, holiday, emergency, vacation, time away from work, or docked day etc.) will not be paid at the overtime rate **until the actual hours worked exceed forty (40) hours** during the workweek. In other words, hours of paid or unpaid leave shall not be considered hours worked. Only the hours worked over forty (40) in a workweek shall be compensated at one and one-half his/her regular hourly rate.

3309.5.1 Periods of time when an employee is performing duties for the benefit of his/her employer, whether the duties are performed on the employer's premises or elsewhere, are considered hours worked. On-duty time may include periods of inactivity. These periods of inactivity are unpredictable and of short duration (less than 30 minutes). The employee must not be able to use the time effectively for his or her own purposes. The employee is "engaged to wait" and those hours are considered work time.

3309.5.2 Periods of time during which an employee is completely relieved from duty and which are long enough to enable his/her to use the time effectively for his/her own purpose (30 minutes or more) are not hours worked, even if the employee is away from his/her normal work location. To be relieved of duty, an employee

must be told when each “tour of duty” commences that he/she may leave the job and will not have to commence work until a specified time has arrived. The employee is “waiting to be engaged” and it is not considered work time.

- 3309.6 However, pursuant to WV Code 18A-4-8a, a service employee required to work on any legal school holiday will be paid at a rate of one and one-half times his/her usual hourly rate for hours worked on the legal school holiday. In addition, any full-time service employee who is required to work in excess of his/her normal working day in any week that contains a paid school holiday shall be paid for the additional hours worked at a rate of one and one-half times his/her usual hourly rate.
- 3309.7 Pursuant to the FLSA, compensatory time is an acceptable alternative to overtime compensation/additional time for a service employee at the employee’s option. All compensatory time must receive prior approval from the Superintendent or his/her designee (department heads/principals). The employee’s timesheet must list ALL compensatory time earned on the date of accrual and all compensatory time used on the date it was used. A running total of compensatory time must be maintained on the timesheet.
- 3309.8 The rate of compensatory time will be one and one half hours for each hour worked in excess of forty (40) hours during the workweek, actual hours worked on paid school holidays, and any additional hours worked in excess of the normal working day in any week that contains a paid school holiday. A non-exempt employee shall not be permitted to accrue more than forty (40) hours. Additional time shall not accrue until the employee’s accrued compensatory time is reduced to less than forty (40) hours of compensatory time. All compensatory time must be used within one year after it is earned (WV Code §21-5C-3).
- 3309.9 An employee is permitted to use accrued compensatory time as paid time off with prior approval from the supervisor. Compensatory time may be taken in half hour increments. Substitute personnel are not authorized for compensatory time off situations.
- 3309.10 The request to use compensatory time must be made in advance. Approval of such request is subject to scheduling, school system operations, work demands and the number of other personnel taking the same time off.
- 3309.11 When an employee resigns or is discharged from employment with the Board of Education, accrued compensatory time shall be paid at a rate not

less than (a) the average regular rate received by such employee during the last three years of his/her employment or (b) the final regular rate received by the employee, whichever is higher.

- 3309.12 The superintendent or his designee, department heads/principals, may authorize “flex time” or a schedule change for an employee to complete his/her duties within a given workweek, provided that the total hours worked does not exceed the contracted hours within that work week. The employee’s timesheet must list all flex time hours earned on the date it was earned and all flex time hours used on the date it was taken. Flex time is calculated hour for hour. Flex time must be used within the week that it is earned.
- 3309.13 Non-exempt employees are not permitted to volunteer to perform services on behalf of the school system if the volunteer duties involve the same types of duties they regularly perform.
- 3309.14 Non-exempt employees that are awarded extra curricular contracts must keep separate timesheets for all hours worked in the extra curricular position. The total of these hours may not exceed the maximum hours listed on the extra curricular posting.
- 3309.15 Non-exempt substitute employees are required to sign in at each school/work location site. The sign in information must include the name, the work date, the name of the regular employee absent, and the times the substitute began and ended their duties. The substitute is not permitted to work beyond the regular work day for that classification without prior approval from the appropriate individual(s) listed in section 3309.3. If permission is granted to work beyond the regular work day, a separate timesheet must be completed listing the additional hours worked beyond the regular day. In addition, school officials and department heads are responsible for maintaining site sign-in records for three years.
- 3309.16 Any employee that fails to follow this policy may be subject to the following disciplinary actions:
- 1<sup>st</sup> offense: Written reprimand
  - 2<sup>nd</sup> offense: Unpaid suspension, 1-3 days
  - 3<sup>rd</sup> offense: Unpaid suspension, 4-10 days
  - 4<sup>th</sup> offense: Recommendation to Superintendent for additional discipline (e.g. termination)

Approved by the Harrison County Board of Education

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