

OVERTIME-
GUIDELINES IN
APPLYING
EXEMPTION
CRITERIA

It is the policy of the Socorro Independent School District to schedule work in such a manner that employees are not required to work in excess of normal working hours as stated in the employee's job description.

1. PRIMARY DUTIES:

This is defined as the main, principal or most important duty the employee performs. Whether an employee performs the primary duties required under a particular exemption depends on an analysis of all the facts, but the most important factor is the character of the job itself. These factors need to be considered as well:

- The relationship between the employee's salary and the wages paid to other employees for the same kind of non-exempt work
- The employee's relative freedom from direct supervision
- The amount of time spent performing exempt work
- The relative importance of the exempt duties as compared with other types of duties

A good example is if the employee spends more than 50% of her time performing exempt work, the primary duty test will be generally met. However, if an employee spends less than 50% of their time on exempt work, it may still be their primary duty if other relevant facts support that conclusion. In addition, employees may be exempt if they perform a combination of exempt duties under different exemptions.

2. EXAMPLES OF EXEMPT DUTIES:

This is defined as the specific exempt duties listed in the various exemptions plus any non-exempt work that is directly and closely related to the exempt work performed. Also defined as the tasks that are related to exempt duties and that contribute to or facilitate the performance of exempt work such as:

- Physical tasks and menial tasks that arise out of exempt duties
- Recordkeeping
- Taking notes
- Using the computer to create documents or presentations
- Opening the mail for the purpose of reading it and making decisions

EXECUTIVE EXEMPTION

To qualify for the executive employee exemption, all of the following tests must be met:

- the employee must be compensated on a salary basis (as defined in the regulations) at a rate not less than \$455 per week;
- the employee's primary duty must be managing the enterprise, or managing a customarily recognized department or subdivision of the enterprise;
- the employee must customarily and regularly direct the work of at least two or more other full-time employees or their equivalent; and
- the employee must have the authority to hire or fire other employees, or the employee's suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees must be given particular weight.

ADMINISTRATIVE EXEMPTION

To qualify for the administrative employee exemption, all of the following tests must be met:

- the employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 per week;
- the employee's primary duty must be the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and
- the employee's primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

PROFESSIONAL EXEMPTION

To qualify for the learned professional employee exemption, all of the following tests must be met:

- the employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 per week;
- the employee's primary duty must be the performance of work

requiring advanced knowledge, defined as work which is predominantly intellectual in character and which includes work requiring the consistent exercise of discretion and judgment;

- the advanced knowledge must be in a field of science or learning; and
- the advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

CREATIVE PROFESSIONAL EXEMPTION

To qualify for the creative professional employee exemption, all of the following tests must be met:

- the employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 per week;
- the employee's primary duty must be the performance of work requiring invention, imagination, originality or talent in a recognized field or artistic or creative endeavor.

COMPUTER EMPLOYEE EXEMPTION

To qualify for the computer employee exemption, the following tests must be met:

- the employee must be compensated either on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 per week or, if compensated on an hourly basis, at a rate not less than \$27.63 an hour;
- the employee must be employed as a computer systems analyst, computer programmer, software engineer or other similarly skilled worker in the computer field performing the duties described below; and
- the employee's primary duty must consist of:
 1. the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications;
 2. the design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;
 3. the design, documentation, testing, creation or modification of computer programs related to machine operating systems; or
 4. a combination of the aforementioned duties, the performance of which requires the same level of skills.

3. EXAMPLES OF NON-EXEMPT:

Non-exempt duties:

- Performing the same kind of work as the employees supervised
- Performing any production work which is not part of supervisory function
- Performing routine clerical duties such as bookkeeping, billing, filing and operating business machines
- Checking and inspecting work as production operation, rather than as a supervisory function
- Keeping records on employees who are not under the person's supervision
- Preparing payrolls
- Performing maintenance work

OVERTIME COMPENSATION PROCEDURES

All paraprofessional employees are required to work a 7.5 hour work day which is 37.5 hour weekly, for full time employees. Any additional hours up to 40 hours for the week will be paid at the regular hourly rate. Overtime will be paid for any hours in excess of 40 hours in the same work week. All auxiliary employees are required to work an 8.0 hour work day for full time employees. Any hours in excess of 40 hours in the same work week will be considered overtime. The employee's supervisor will determine the work schedule. Supervisors will not allow employees to accrue over a total of 30 compensatory hours at any one time. All overtime must have prior approval from the immediate authorized supervisor and he/she must have prior approval from the Superintendent or Assistant Superintendent responsible for the respective department. Emergencies will be handled on a case-by-case basis.

HOURS WORKED:

The hours worked by an employee includes all of the time an employee is required to be on duty, or on the district's premises, or at a prescribed work place for the district. Waiting time or periods of inactivity (e.g., bus drivers) is considered time worked when the time belongs to and is controlled by the district. Periods during which an employee is completely relieved from duty and which are long enough to enable the employee to use the time effectively for his or her own purposes is not time worked.

Employees which attend college or continuing education courses may have an altered daily work schedule, with approval of a supervisor and he/she must have prior approval from the Superintendent or Assistant Superintendent responsible for the respective campus or de-

partment. Daily work hours will be the supervisor's responsibility in ensuring all employees work daily hours and specified calendar work days.

Meal periods will not be counted as time worked since by policy all employees are relieved from duty 45 minutes or more. Supervisors are required to make necessary overtime payment to any employee who takes less than 30 minutes of lunch in addition to the daily worked hours. Authorization of a missed lunch must be approved as a one-time option, or special occasion. Shift BREAKS on the time clock are not authorized.

The Socorro Independent School District will:

- Compensate all non-exempt employees for overtime through either (1) premium pay for all overtime worked at a rate not less than one and one-half times their regular rate of pay, or (2) premium compensatory time off at the rate of one and one-half hours off for each overtime hour worked up to a maximum of 200 total accrued hours. The supervisor will closely monitor the accrual and use of compensatory time to ensure that no employee accrues more than 200 hours within a school year. Socorro ISD has chosen to use compensatory time as the primary basis for overtime payment.
- Overtime includes any hours worked in excess of 40 hours in the same work week.
- Every work week stands alone in computing compensatory entitlements. Different work weeks cannot be consolidated or averaged in determining compensatory time during a pay period. The district defines the work week from Sunday 12:00 a.m. to Saturday 11:59 p.m.
- Accruing compensatory time must be understood and agreed to before the work is performed.
- Compensatory time cannot be waived by voluntary agreement between employer and employee, and an employee cannot "donate" overtime or agree to reduce rates of cash or compensatory time.
- If any employee terminates employment, the employee will be paid for any unused compensatory time at a rate not less than the average rate received by the employee during the last three years of employment or the final regular rate of pay received, whichever is higher.
- Compensatory time records will be audited by the Human Resources Department.
- It is the employee's responsibility to ensure he/she punches in/out correctly each day. Employees may experience delays in full compensation and disciplinary measures for failing to punch in/out prior to the cut off dates for finance.

Disciplinary action for employees which make excessive punch infractions may result in the following:

- 1st Infraction: Verbal Counseling
- 2nd Infraction: Written Counseling Record
- 3rd Infraction: Written Reprimand
- 4th Infraction: 2nd Written Reprimand, Recommend one (1) Day Suspension to HR, and Performance Improvement Plan
- 5th Infraction: 3rd Written Reprimand, Recommend three (3) Day Suspension to HR
- 6th Infraction: Recommend for Termination to HR
- Employees working overtime without prior approval will be subject to disciplinary action:
 - The first offense may merit a written warning.
 - The second offense may merit a one-day suspension without pay.
 - The third offense may merit termination.
- Since overtime starts accruing after 40 hours of work, the employee must leave the job site immediately at the end of the work day. Employees are encouraged not to eat at their desk and must have a duty-free lunch period.
- Non-exempt employees who report to work for less than 5.0 hours and need to leave their work site for a reported absence will receive the hours worked as compensatory time, which will be tracked by each campus or department supervisor.
- Falsification of records regarding time worked, including overtime, will be considered good cause for immediate termination. No employee will mislead time clock punches by inadvertently or advertently missing punches or by punching incorrectly. These actions may result in immediate termination. Actual time worked must be recorded.
- Compensatory time records will be kept at the campus or department level with appropriate documentation and signatures of the employees and administrator in charge.
- If compensatory time is taken, indicate such use on the compensatory log which must be submitted to Human Resources.
- Compensatory time not used prior to the end of each school year (see current calendar) will be paid at a rate of one and one-half times the current salary before the school year ends. Compensatory time will not accrue or be carried forward.
- In the event of electronic clock failure, paper time sheets will be used temporarily. A supply of these should be on hand at all times.
- Non-exempt employees are not to be authorized to perform additional stipend paid positions. This includes and is not limited to coaching, UIL, safety patrol, after school programs, and/or any organized SISD functions.

OVERTIME EXCEPTIONS:

Hours worked under the following conditions are not covered as over-time:

1. Security guards who, solely at the employee's option, volunteer for special details for a separate and independent employer.
2. Employees who exchange shifts, and thus, substitute for other individuals employed by SISD in the same capacity.
3. Individuals who volunteer to perform services for SISD providing the following terms are met:
 - a) Individuals receive no compensation or are paid expenses, reasonable benefits, or a nominal fee for their services.
 - b) Employees may not volunteer to work for SISD to perform the same type of services they are employed to perform.

SISD DEFINITION OF COMPENSATORY TIME:

OVERTIME COMPENSATION:

- Supervisors of non-exempt employees shall inform them prior to the performance of work requiring overtime duty, that the only form of compensation shall be compensatory time off unless the respective Assistant Superintendent has granted prior approval in writing that cash will be paid. The supervisor shall also maintain a written record of such overtime requests and use.
- The District can pay all overtime in cash if it so desires. However, if compensatory time is accrued in lieu of cash and then later converted into cash, the rate at which the accrued hour is paid shall be the regular rate earned by the employee at the time the compensatory hours are converted into cash, not the regular rate paid when overtime was worked.
- A prerequisite to the use of compensatory time in lieu of overtime payments is an employment agreement or understanding. Under the federal regulations following the 1985 amendments, the agreement or understanding may be evidenced by a notice to the employee that compensatory time will be given in lieu of overtime pay. In such a case, the understanding would be presumed to exist with respect to any employee who fails to object.
- An employee must be permitted to use compensatory time within a reasonable period after making a request, if the use of compensatory time does not unduly disrupt the operations of

the District. Mere inconvenience to the employer is not a sufficient basis for denial of a request for use of compensatory time. "Compensatory time off" hours are not counted as hours worked during the work week for purposes of overtime compensation, even though the employee is compensated at the employee's regular rate. Compensatory time must be used during the school year in which it is accrued. It may not be carried over to another school year.

OVERTIME OPTIONS:

The following three options may be used in dealing with overtime:

1. Alter the regular schedule during the work week so that the total hours will not exceed forty. If schedules are altered during the work week, equivalency time of one hour off for one hour worked may be given.
2. Pay for the overtime at one and one-half time the employee's regular hourly rate at the end of the pay period over 40 hours.
3. Grant compensatory time of one and one-half hours for every hour of overtime worked over 40

JOINT EMPLOYMENT RELATIONSHIPS:

Employees who perform work for an outside group (e.g., PTA, churches) and receive compensation from that group for the work performed will be paid overtime wages for the time worked. A joint employment relationship exists when:

1. There is an arrangement between the district and an outside agency to share the employee's services.
2. One district or group is acting directly or indirectly in the interest of the other district or group in relation to the employee.
3. The district or groups are not completely disassociated with respect to the employment of a particular employee and may be deemed to share control of the employee, directly or indirectly.

In a joint employment relationship, all of the employee's work for all of the joint districts or groups during the work week is considered as one employment for overtime purposes. All joint districts or groups are responsible for compliance with the Fair Labor Standards Act with respect to all hours worked for all districts or groups in the particular work week. Regardless of who pays what portion of wages earned, the employee is entitled to the premium rate of overtime pay based on regular wages, and the entitled amount cannot be reduced by either district or group.

RECORD KEEPING:

The Fair Labor Standards Act requires employers to make, keep and preserve adequate records of the hours worked each work day and the total hours worked each work week for all non-exempt employees. No particular order or form is set out by regulation. The district will provide appropriate documents for the record keeping. (29 U.S.C. 211© and 215(a)(2))

Time Clock Supervisors are responsible for rectifying all time sheets prior to the cut-off date for finance.

Only the supervisor may override the time clock system and make corrections to time sheets. Non-exempt employees who alter or adjust time sheets are subject to discharge or other disciplinary measures.

ENFORCEMENT:

The Fair Labor Standards Act (FLSA) is governed by the federal government. Non-exempt positions are subject to the FLSA rules. Infractions of the regulations governing FLSA carry heavy penalties which might, in extreme cases, result in loss of monies to the Socorro Independent School District.

**TIME CLOCK
REGULATIONS**

All existing payroll procedures will remain in place until further notice. The time clock system is one additional time management system, which further assists department personnel in tracking working hours.

This policy applies to all non-exempt personnel. One or more time clocks will be installed in each district facility and campus. All non-exempt employees will receive training on the use of the District's time clock system.

TIME CLOCK RULES FOR PARAPROFESSIONAL, AUXILIARY AND ALL NON-EXEMPT EMPLOYEES:

1. Each employee will comply with SISD established clock-in and out policies.
2. No employee will clock-in or out for any other person. Any employee clocking in or out for another employee is subject to termination.
3. No employee will clock-in seven minutes before the approved clock-in time. Employees are expected to clock-in no later than seven minutes after the scheduled clock-in time to avoid a late-to-work punch. No work will be performed beyond the scheduled work shift without prior approval from the immediate supervisor. The immediate supervisor and the respective Assistant Superintendent must approve all overtime before it is worked.

4. The time clock will round all punches to the closest quarter hour for pay purposes only. Employees are not allowed to punch 7 minutes early or late daily excessively to simply gain more "time off" paid. Below are examples which clarify time clock rounding procedures:

Example 1:

Your clock-in time is 08:00 a.m.

You arrive at 08:05 a.m.

The time clock will round the in-punch time to 08:00 a.m.

Example 2:

Your clock-in time is 08:00 a.m.

You arrive at 08:08 a.m.

The time clock will round the in-punch time to 08:15 a.m.

Example 3:

Your clock-out time is 4:30 p.m.

You clock-out at 4:16 p.m.

The time clock will round the out-punch time to 4:15 p.m.

Example 4:

Your clock-out time is 4:30 p.m.

You clock-out at 4:38 p.m.

The time clock will round the out-punch time to 4:45 p.m.

Example 5:

Your clock-out time for lunch is 11:30 a.m.

You clock-out at 11:31

The time clock will round the out-punch time to 11:30

5. A valid reason must exist for early clock-ins or late clock-outs. It must be verified by the immediate supervisor on duty. The immediate supervisor must report these situations to the re-

- spective department supervisor who will approve the clock-in or clock-out time for pay authorization.
6. Any employee may clock in/out at work sites, other than the home base with prior approval by his/her supervisor.
 7. No travel time from the employee's home to work location, whether by private vehicle or SISD vehicle, will be considered work time.
 8. The respective campus or department supervisor/secretary will review the daily exceptions report and make the appropriate punch time clock changes, if required, according to set policies.
 9. Long intervals of work beyond the normal work time schedule must be justified by the supervisor. Overtime hours which are worked by an employee "off the clock" or "at home" will be added manually into the time clock software by the Time Clock Supervisor. Failure to do so by the supervisor may result in disciplinary action. No supervisor will add work time to any employee's schedule simply to add time. Disciplinary action will be taken if time is added without just cause.
 10. Employees must work the required number of hours daily. Payroll may pay or dock according to the employees work hours registered by the biometric time clock system.
 11. Employees attending trainings at another location other than their home campus/department must use the time clock at the location the training is held.

Approved:

Jose Espinoza, Ed. D. Superintendent
February 3, 2016

Board Committee Review:
February 8, 2016