

MISSOURI STATE BOARD OF EDUCATION AGENDA ITEM:**February 2017**

CONSIDERATION OF ADOPTION OF PERSONNEL POLICIES

STATUTORY AUTHORITY:

Section 161.132, RSMo

Consent
ItemAction
ItemReport
Item

DEPARTMENT GOAL NO. 4:

The Missouri Department of Elementary and Secondary Education will improve departmental efficiency and operational effectiveness

SUMMARY:

The Department's complete set of personnel policies was adopted by the State Board of Education on March 21, 2002. Revisions to some policies have been approved in subsequent years. The language in Personnel Policy 100-120 Overtime, needs to be revised. Policy revisions have been reviewed by a committee composed of employees, executive staff, the Human Resources Section, and legal counsel.

Revisions to the policy will enable the Department to better manage time and resources to limit the amount of overtime employees earn, as well as, the amount paid out.

PRESENTER:

Roger Dorson, Deputy Commissioner, Financial and Administrative Services, will assist in the presentation and discussion of this agenda item.

RECOMMENDATION:

The Department recommends that the State Board adopt the personnel policies as presented.



PERSONNEL POLICIES AND PROCEDURES

Adoption Date:	Approved By: State Board of Education
Policy No: 100-120	Section: Wage and Salary Administration
Pg. 1 of 4	Subject: Overtime

I. PURPOSE

To establish uniform overtime guidelines for all employees.

II. SCOPE

This policy applies to all Department employees.

III. POLICY

- (A) The Department may compensate overtime to employees. The Division/Office Administrator shall be responsible for authorizing overtime work and overtime compensation. The Division/Office Administrator may require employees to perform reasonable amounts of overtime work to fulfill the responsibilities of the Department, provided this authorized overtime work is compensated in accordance with these policies and applicable state or federal statutes. *See 29 U.S.C. §201 et seq.*
- (B) Forty (40) hours constitute a normal workweek for employees. In general, hours worked include all the time an employee is required to be on duty or at a prescribed workplace for the employer, time spent on incidental activities that are indispensable or an integral part of their principal duties, and all time during which the employee is required or permitted to work for the employer, including work performed at home.
- (C) A workweek is forty (40) hours of regularly scheduled work within a fixed and regularly recurring period of one hundred sixty-eight (168) hours in the form of seven (7) consecutive twenty-four (24) hour periods. The workweek for most Department employees will be the same as the calendar week, Sunday through Saturday. The workweek may begin on any day of the week and at any hour of the day. Once established, a workweek may be changed if the change is intended to be permanent and the purpose is not to avoid overtime liability. The Commissioner shall be responsible for establishing the workweek for employees.
- (D) **Federal O**vertime compensation for non-exempt employees is computed at one and one-half (1½) times the number of hours actually worked over forty (40) in a

workweek, to be taken as compensatory time off or to be paid at the regular hourly rate-of-pay at one and one-half (1½) times. ~~After January 1, 2006, overtime compensation for non-exempt employees will be computed at one and one-half (1½) times the number of hours worked over forty (40) in a workweek to be paid at the regular hourly rate-of-pay at one and one-half (1½) times.~~ An agreement shall be reached between the ~~De~~Division/~~Oe~~Office ~~Aa~~Administrator and the employee concerning the method of compensation before performance of the work: payment, compensatory time off, or a combination thereof. Payment shall require prior approval of the Commissioner. Annual leave, sick leave, holidays, compensatory time off, jury duty, and other types of leave are hours in pay status at straight time and shall not be considered as hours of ~~actual~~ work to be eligible for ~~federal~~ overtime compensation at the rate of one and one-half (1½) times the number of hours worked over forty (40) hours in a workweek.

- (E) Exempt employees, as defined by the regulations interpreting the Fair Labor Standards Act (FLSA), are exempt from overtime provisions, and are not required to be compensated for overtime. According to this policy, exempt employees may receive compensatory time if authorized by the ~~De~~Division/~~Oe~~Office ~~Aa~~Administrator.
- (F) All overtime must be approved by the employee's direct supervisor and the ~~De~~Division/~~Oe~~Office Administrator prior to the employee working overtime. Employees are required to notify their direct supervisors at the earliest possible time the employee knows they will not be able to finish their regularly-scheduled workweek without working overtime, but no later than one (1) day before the workday the employee will be in overtime status if working a full day.
- (G) If workload or special circumstances (e.g. a conference, training, special project, etc.) require an employee to work in excess of forty (40) hours in one (1) workweek if they finish out the week according to their regular schedule, supervisors shall adjust an employee's workweek so that the employee does not work in excess of forty (40) hours in that workweek, unless overtime compensation has been approved in accordance with this policy's guidelines.
- (H) Non-exempt employees are prohibited from working more than forty (40) hours in one (1) workweek without prior approval, regardless of whether they report their time. Working more than forty (40) hours in one (1) workweek without approval may result in disciplinary action.
- (I) Employees shall not be allowed to work on holidays to earn Holiday compensatory time (computed at the straight time rate) unless their job responsibilities are deemed essential by the employee's direct supervisor and the ~~De~~Division/~~Oe~~Office Administrator (e.g. to attend a conference, legislative hearings, district review, etc.).
- ~~(J)~~(G) When any Department employee works overtime, time worked shall be recorded on an overtime form ~~or by use of a time clock~~. Overtime shall be recorded for the

time actually worked, but will be rounded to the nearest fifteen (15) minutes. The fifteen- (15) minute-average rule shall be used to calculate the time worked each day. For example, seven (7) or fewer minutes overtime worked will not be compensated; eight (8) minutes overtime worked will be compensated as fifteen (15) minutes.

~~(K)~~(H) The maximum total Federal compensatory time, which may be accrued by any non-exempt employee, shall be two hundred forty (240) hours. ~~Anything~~ Any federal compensatory time earned by a non-exempt employee over two hundred forty (240) hours will be automatically paid by the HR/Payroll system.

~~(L)~~(I) Compensatory time may be accrued by an exempt employee. After the October 16th through 31st pay period is posted on the payroll system each year, any compensatory time (total combined hours of State and Holiday compensatory time balances) above the eighty (80) hour maximum amount shall be removed from the payroll system.

~~(M)~~(J) Excess compensatory time may be donated to the Department's Shared Leave Pool.

~~(N)~~(K) An employee shall be permitted to use accrued compensatory time within a reasonable period after it is requested if to do so would not unduly disrupt the operations of the Department. ~~It is suggested that~~ Compensatory time must be used before annual leave for employee absences (unless their annual leave balance is at the maximum). Employees may use compensatory time in lieu of using sick leave.

IV. PROCEDURES

(A) Work authorized by the Division/Office Administrator for exempt staff which causes the employee to exceed forty (40) hours in pay status during a workweek, shall not be compensated except in unusual circumstances as determined by the Division/Office Administrator. The compensatory time which may be accrued and the policies concerning its usage are as follows:

1. All compensatory time will be submitted on the standardized form for advance approval by the Division/Office Administrator;
2. Weekend travel will provide for a maximum of eight (8) hours of compensatory time per day for conferences or meetings that are directly related to the employee's job and that have been approved in advance. Example: If a conference begins on Sunday and the employee leaves on Saturday to receive lower air fare, compensatory time will be given for actual travel up to eight (8) hours on Saturday and for up to eight (8) hours on Sunday;
3. Employees may be allowed to flex their work schedule during a given Fair Labor Standards Act (FLSA) cycle (Sunday to Saturday) if compensatory time

will be accrued, with prior approval. The specific amount of compensatory time that was earned may be flexed at an approved point during that same FLSA cycle (Sunday to Saturday). The flexing of compensatory time during the FLSA cycle (Sunday to Saturday) will be entered into the Enterprise Time Application (ETA) system using codes ADDHR for the extra hours worked and FLEX for the adjusted time off hours. The total ADDHR hours earned and the total FLEX hours used must be the same.

3. ~~Weekday travel or work will allow compensatory time to be given if the employee is on a regular work schedule and must work or travel past 9:00 p.m. on a workday. In this case the employee will be given two (2) hours of compensatory time;~~
 4. In the event that a disaster affects departmental operations, the Commissioner of Education has the discretion to alter overtime and expenses for key positions in an effort to provide continuity of operations; and
 5. All compensatory time ~~will~~ must be entered into the ~~leave system by the timekeeper or designated person for that division.~~ ETA timekeeping system by the employee in the pay period that it was worked, approved by the direct supervisor, and correctly calculated by the system.
- (B) Exempt employees will not be paid for any compensatory time over the eighty (80) hour maximum accrual upon termination. Employees who transfer from one division/office of the Department to another without a break in service will normally transfer their entire compensatory time balances with them. However, the employee may request that the releasing division pay off all or part of the compensatory time balance at the total discretion of the Division/Office Administrator. This payment shall be based on the employee's rate of pay at the time of termination or transfer.

V. DEFINITIONS

(A) The following definitions apply to this policy:

1. Compensatory Time: Time during which an employee is not working, which is not counted as time worked during the applicable workweek and for which the employee is compensated at the employee's regular rate;
2. Substitution: ~~Employees of the Department, at their own option, but with the approval of their immediate supervisor, may substitute during scheduled hours for other employees employed in the same capacity. In the case of such substitution, the hours involved are credited to the scheduled employee and not to the substitute employee. The Department need not maintain a record that the substitution has taken place. Substitution can only be used by employees in~~

classifications working a shift schedule. Substitution is inapplicable to State Board operated schools;

3. Volunteers: Individuals who volunteer their services to the Department are excluded from the definition of employee and are thus excluded from coverage under the (FLSA) if:
 - a. The individual received no compensation, or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered; and
 - b. The individual does not perform the same type services for which they are employed by the Department;
42. Exempt Employees: Employees whose positions meet specific tests established by the FLSA and state law and who are exempt from overtime pay requirements;
53. Non-Exempt Employees: Employees whose positions do not meet FLSA exemption tests and who are paid a multiple of their regular rate of pay for overtime, as required by federal and state law.