

LICENSED AND CLASSIFIED STAFF SCHEDULES AND OVERTIME/COMPENSATORY TIME COMPENSATION

A. Teaching/ Instructional Staff

The hours of employment shall depend on the length of time required to accomplish the objectives of Albemarle County Public Schools. Licensed personnel shall be available for a reasonable time both before and after school to assist students and parents as the need may arise. Principals shall set the beginning and ending times for their teachers with the approval of the Superintendent/Designee.

B. Classified Personnel

The supervisor of every classified employee shall determine the employee's work day and hours of employment in accordance with budgeted hours for that position. Principals/department heads/designees may require that employees work overtime to meet the needs of the school/department. Whenever possible, notice of this requirement will be provided 2-3 days in advance so that employees can arrange their personal schedules.

C. Alternative and Flexible Work Schedules

Principals/department heads may establish alternative or flexible staff schedules provided that the following are incorporated:

1. the school/department is open to the public on all days other than posted holidays;
2. employees work the required number of scheduled hours per week; and
3. all applicable personnel policies are followed.

D. Overtime and Compensatory Time Compensation

- A. Covered, non-exempt classified staff are entitled to overtime pay or compensatory time leave pursuant to the Fair Labor Standards Act ("FLSA") for hours worked in excess of their maximum allowable hours. The following regulation establishes the general guidelines and procedures the Division will follow regarding overtime and compensatory requirements of the FLSA and applicable state law. If any conflict arises between this policy and the FLSA or state law, the requirements of the FLSA and/or state law will govern.

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Legal Ref.: [Fair Labor Standards Act, 29 U.S.C. Section 210 et seq](#) [29 U.S.C. §201 et seq.](#)

[29 C.F.R. § 516.1 et seq.](#)

Code of Virginia, 1950, as amended, §§ 22.1-291.1, 40.1-28.8 et seq.

LICENSED AND CLASSIFIED STAFF SCHEDULES AND OVERTIME/COMPENSATORY TIME COMPENSATION

I. KEY TERMS REGARDING OVERTIME PAY AND COMPENSATORY TIME

- A. **Fair Labor Standards Act.** The FLSA requires all covered employers, including the County, to comply with its minimum wage and overtime compensation requirements. Public employers must compensate eligible employees for hours worked in excess of maximum allowable hours by making monetary payment or granting compensatory time.
- B. **Exempt Employees.** Employees are exempt from the FLSA's overtime and compensatory time requirements if they satisfy the criteria for bona fide professional, administrative, or executive positions. A list of these positions must be approved by the Superintendent and maintained by the Department of Human Resources.
- C. **Non-exempt Employees.** Employees who are subject to the FLSA's overtime and compensatory time requirements are considered non-exempt.
- D. **Workweek.** The Superintendent has established the official workweek as extending from Saturday at 12:01 a.m. to Friday at 12 midnight. Changes to this established workweek may be adopted by principals/department heads to meet the operational needs of their school/department, provided that the revised workweek notice is provided in writing to the employees and a copy is on file in Human Resources.
- E. **Work Schedules.** The principal/department head is responsible for establishing employee work schedules, including provisions for lunch and breaks. Full-time Teachers shall work a minimum of seven and one-quarter ~~fourth~~ hours per work day. All other employees shall work schedules established by the principal or department head for the employee's specific position. No employee shall leave the school premises during the established hours of employment without the permission of the principal or supervisor or their designee.
- F. **Maximum Allowable Hours.** Maximum allowable hours for employees are 40 hours within the workweek.
- G. **Hours Worked.**
 - 1. **General.** Eligible non-exempt employees who work more than the maximum allowable hours in a workweek must receive either overtime pay or compensatory time for their excess hours worked. Paid or unpaid time off during which the employee is absent from the service of the Division shall not be counted as "hours worked" in determining if the maximum allowable number of hours has been exceeded. Such absences include, but are not limited to, holiday, sick, annual, and compensatory leaves, leaves of absence, meal breaks, and inclement weather closures.

2. Meal Breaks. Bona fide meal breaks do not count as hours worked. Meal breaks must ordinarily be at least 30 minutes long and provide the employee a rest period free from any work requirements.
3. Travel Time. When non-exempt employees are required to attend meetings or conferences that occur outside of Division facilities, the hours involved in the actual travel, as well as the hours involved in the training/meeting, shall be considered hours worked. Employees shall report this time to their supervisors, using forms designated for that purpose.

II. GENERAL REQUIREMENTS OF OVERTIME PAY AND COMPENSATORY TIME

A. Eligibility to Earn Overtime/Compensatory Time

1. Non-exempt Employees. Unless excluded by the FLSA, all non-exempt employees of the Division who work in excess of 40 hours within one designated workweek are eligible to earn overtime/compensatory time.
2. Exempt Employees. Exempt employees are not eligible to earn overtime, whether as monetary payment or compensatory time. This does not, however, preclude department heads from using their discretion and granting time off to exempt employees in recognition of time worked beyond normal work schedules.

B. Calculation of Overtime/Compensatory Time

All eligible, non-exempt employees are to be compensated one and one half times the employee's regular hourly rate of pay for hours worked in excess of their maximum allowable hours. This compensation may be monetary or through the accrual of compensatory time at the choice of the employee prior to the performance of the overtime work. Calculation of overtime/compensatory time shall be as follows:

1. All Employees. All eligible non-exempt employees who work in excess of 40 hours within the workweek are to be paid one and one half times the employee's regular hourly rate of pay, or be compensated one and one half hours of compensatory time for every hour in excess of 40 hours.
2. Compensatory Time for Non-Overtime Work. Non-exempt employees who work in excess of their regularly scheduled work hours but do not exceed the maximum allowable number of hours may be granted compensatory leave in the amount of one hour for each hour worked or may be paid their regular hourly rate for those excess hours worked.
3. Pay-outs of Compensatory Time. Any payment for unused compensatory time shall be based upon the employee's current regular hourly rate. Upon termination, non-exempt employees shall be paid for unused compensatory time. Non-exempt employees who are transferring to another department or who are promoted from a non-exempt into an exempt position shall, prior to assuming the new position, reach an agreement with their

department head to use their accumulated compensatory leave or to be paid for the unused compensatory leave balance. The employee's compensatory leave balance must be zero prior to the starting date for the new position.

4. Two or More Hourly Rates. Employees holding more than one position may have two or more regular hourly rates. Principals/department heads should consult with Human Resources for guidance regarding the payment of overtime compensation to such employees.

C. Maximum Compensatory Time Balances

Eligible non-exempt employees may accrue up to 100 hours of compensatory leave. Employees shall be paid for all compensatory leave in excess of the maximum allowed for accrual.

D. Employer Responsibilities

1. Managing the Accrual of Overtime. Principals/department heads may require that employees work additional time or overtime to meet the needs of the school/department, and are responsible for managing employees' hours worked whenever possible within the designated workweek or work period to avoid overtime. If an employee works more than the designated work hours in one day, thus creating the potential to exceed the maximum allowable hours within the workweek, the employee's supervisor may require the employee to take leave in the amount of the excess time worked within the same workweek to avoid the accrual of overtime.
2. Fund Availability. Principals/department heads shall ensure that adequate funds are available to pay required overtime compensation and compensatory time pay-outs.
3. Scheduling Compensatory Leave. Principals/department heads shall be responsible for scheduling compensatory leave so that it may be taken within a reasonable period of time after the employee requests it, so long as such use does not unduly disrupt the operations of the school/department. A "reasonable period" under the FLSA is determined by considering the customary work practices within the school/department, such as: a) the normal schedule of work; (b) anticipated peak workloads based on past experience; (c) emergency requirements for staff and services; and (d) the availability of qualified substitute staff. Leave is considered to "unduly disrupt the operations of the department" if it would impose an unreasonable burden on the school/department's ability to provide services of acceptable quality and quantity for the public during the time requested without the use of the employee's services.
4. Recordkeeping. Principals/department heads shall ensure that all non-exempt employees complete and submit, on a timely basis, accurate data recording their hours worked and leave taken.

E. Employee Responsibilities

1. Authorization for Overtime. Classified, non-exempt employees may work overtime only with prior authorization from their supervisors. Failure to do so may result in disciplinary action in accordance with Board policy. Employees will report additional hours worked to their supervisors within five business days.
2. Scheduling Compensatory Leave. Classified, non-exempt employees are required to arrange use of compensatory leave in advance with their supervisors. In case of a conflict because of the work schedule in a particular school/department, leave will be granted at the discretion of their supervisors.
3. Time Recording. All non-exempt employees must complete and submit, on a timely basis, accurate data recording their hours worked and leave taken. Failure to do so may result in disciplinary action in accordance with County policy.

IV. ON-CALL AND CALL-BACK COMPENSATION

A. On-Call Compensation

1. Eligibility. Non-exempt employees required to be “on-duty” while on-call must be compensated for the “on-duty” hours worked while on-call. Whether the FLSA considers an employee to be “on-duty” while on-call depends on a number of circumstances, including, but not limited to, being required to remain on the employer’s premises and being restricted from using on-call time effectively for personal purposes. In addition, non-exempt employees may be compensated for “off-duty” on-call time pursuant to a departmental on-call compensation program approved in accordance with this section. Exempt employees are not eligible to receive on-call compensation.
2. School/Departmental On-Call Compensation Programs. Schools/departments may develop on-call compensation programs to compensate employees for “off-duty” on-call time based on their specific needs. Principals/department heads must submit their proposed guidelines to the Human Resources Department and the County Attorney’s Office for approval in order to ensure that they meet all applicable legal and policy requirements.

Compensation pursuant to a school/departmental program will be authorized only if the on-call service meets all of the following criteria:

- a. Service must be mandated.
- b. On-call employees are expected to respond promptly to calls, resulting in partially restricted personal time of on-call employees. Specific response time may vary depending on individual school/department requirements.

- c. On-call employees will not be called if another County employee is already on duty and available to perform the required services.
 - d. The school/department's on-call guidelines have been approved by Human Resources and the County Attorney's Office.
3. Calculation. The rate of compensation for off-duty on-call time shall be established in each school/departmental on-call compensation program. In all cases, however, employees shall be given the option of monetary payment or compensatory time and must communicate that preference to supervisors prior to working the on-call time.

B. Call-Back Compensation

1. Eligibility. Any eligible non-exempt employee who is required by the principal/department head to report back to work outside of the employee's regularly designated work hours on less than 24 hours' notice shall be eligible for call-back compensation at one and one-half times the employee's regular hourly rate, regardless of the number of hours worked in that workweek. An employee's "regularly designated hours" are those hours at which the employee is normally scheduled to work. Hours worked beyond regularly scheduled work hours which require an employee to stay at work, rather than report back to work, shall not be deemed call-back hours and shall be compensated as otherwise provided herein.
2. Calculation. In lieu of paying an employee for call-back time, the Division may compensate an employee with compensatory time. Compensatory time shall be accrued at a rate of one and one half hour for every hour of call-back time worked. Employees shall decide whether to receive monetary compensation or compensatory time and communicate that preference to their supervisors prior to working the call-back time.

V. HOLIDAY PAY

A. Non-working Holidays. General Rule. Any 12-month regular employee, including someone who is part-time and not eligible for benefits, who does not work on a County observed holiday shall be compensated as follows:

Full-time and part-time employees shall receive the hours of holiday leave equivalent to a regularly scheduled work day to be used on the designated holiday.

A. B. Working Holidays. Any non-exempt 12-month regular employee who is required by the principal/department head to work on a holiday which is observed by the County shall be:

1. Receive compensation ~~Compensated~~ for that holiday for the hours worked plus the hours normally granted ~~accrued~~ for the holidays, all at the regular hourly; or ~~or daily rate; and~~

2. Be At the discretion of the principal/department head, be paid the regular hourly ~~or daily~~ rate for the hours worked and accrue the eight hours normally granted for holidays. ~~of compensatory leave.~~ If an observed holiday falls on a day when an employee is not otherwise scheduled to work, the employee shall still earn the hours eight hours of compensatory leave normally granted for holidays for the observed holiday. Non-exempt employees must be compensated at time and a half for time physically worked in excess of 40 hours in the workweek..

3. ~~Full-time employees shall receive eight hours of holiday leave to be used on the designated holiday. For part-time employees, the amount of holiday leave received shall be consistent with the length of a regularly scheduled work day.~~

BC. Alternative Work Schedules. ~~Full-time e~~Employees ~~who that~~ work ~~an~~ alternative work schedules ~~(e.g., 10 hours/day for 4 days/week)~~ shall ~~also~~ receive ~~eight hours of~~ holiday leave in the amount of regularly scheduled hours per day for each observed holiday. It is the employee's responsibility to make up the hourly difference between the hours granted as holiday leave and the employee's alternative regular work schedule.

 The employee and his/her supervisor may compensate for the difference in hours in one of two ways:

1. The employee may use compensatory leave or annual leave; or
2. The employee may work the difference within that workweek.

2. Example: An employee's position is established at 8 hours/day, 5 days/week for a total of 40 hour/week. The employee has an alternative work schedule of 10 hours/day, 4 days/week for a total of 40/hours per week. Eight (8) hours of holiday leave would be granted and the employee must account for the remaining 2 hours by working within that workweek or using compensatory or annual leave.

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