

SAN DIEGO UNIFIED SCHOOL DISTRICT

Date: October 6, 2006

To: Principals, Vice Principals, Child Development Center Administrators, Division and Department Heads

Subject: OVERTIME COMPENSATION

Department and/or Persons Concerned: All classified employees

Due Date: Implement immediately

Reference: California Education Code Section 45128

Brief Explanation:

Classified employees of the district are entitled to overtime compensation under state and federal law, as well as applicable collective bargaining agreements. All managers and supervisors of the district are reminded of the following responsibilities with regard to full-time employees:

California Education Code Section 45128 defines overtime to include any time required to be worked in excess of eight hours in any one day and in excess of 40 hours in any calendar week. For purposes of computing the number of hours worked, time during which an employee is excused from work because of holidays, sick leave, vacation, compensatory time off, or other paid leave of absence, shall be considered as time worked by the employee.

Overtime compensation is established at the rate of at least time and one-half the regular rate of pay of the employee designated and authorized to perform the overtime for all time worked on the first six consecutive days of the workweek. If the employee works a seventh consecutive day, and has performed work on each of the preceding six days, overtime is paid at twice the employee's regular rate of pay.

Work performed on a paid holiday is compensated at time and one-half the regular rate of pay, unless the holiday is the seventh consecutive day the employee has worked, in which case compensation is twice the regular rate of pay.

An employee may agree to earn compensatory time off in-lieu-of receiving overtime payment. Compensatory time off is valued at time and one-half (or double time if the work is performed on the seventh consecutive day of the workweek). For example, if an employee works one hour of overtime, he/she shall be credited with one and one-half hours of compensatory time off. Employees must be provided with an opportunity to use their compensatory time off within six months of accrual. If an employee requests to take compensatory time off and the request is not granted during the six-month period, the employee must be paid for the accrued compensatory time.

Whenever an employee is reassigned from a position at your site/department (transfer, promotion, layoff/bumping, resignation, or retirement), all accrued compensatory time must be paid off.

Certain employees may be exempt from overtime under the federal law known as the Fair Labor Standards Act. Such job classes, including many classified management and supervisory job classes, are designated with a double asterisk (indicating no overtime compensation is applicable) or a single asterisk (indicating that overtime will be paid only on a straight time basis) on the appropriate salary schedule.

Provisions are contained in the Hours and Wage articles of each classified collective negotiations contract governing the assignment and payment of overtime and compensatory time off, including the obligation to pay extra time and/or overtime under specified circumstances for employees regularly assigned to work less than full time.

It is the responsibility of all managers and supervisors to ensure that no employee is "suffered or permitted" to work overtime without receiving payment or compensatory time off. In no event may employees forgo their unpaid, duty-free lunch period, arrive early/leave late, take work home, or work on any weekend or holiday without the appropriate arrangements made for overtime compensation. In no event may any employee "volunteer" time without payment, including expected attendance at open houses, extracurricular activities, or other school-sponsored events. If an employee under your supervision should work overtime without your knowledge and subsequently request to be paid, under federal law, the overtime application should be processed and paid. It is therefore critical that each site/department establish internal procedures to ensure that all overtime is approved in advance by the principal/department head.

It is the responsibility of every site and department to maintain accurate documentation of all overtime worked and all accrued compensatory time off. These records must be on-hand and made available to the U.S. Department of Labor or to the State of California's Division of Labor Standards Enforcement in the event of a claim by an employee for uncompensated overtime or an audit of our records. The statute of limitations for overtime under federal law is three years. All supervisors and managers will be held accountable for strict adherence to these requirements. Effective immediately, it is expected that all district sites and departments will be able to demonstrate full compliance with the overtime statutes.

Questions regarding this circular may be directed to William Surbrook, director Labor Relations, at (619) 725-8171.

William R. Surbrook
Director Labor Relations

APPROVED:



Jodi Smith
Chief of Staff

WRS:pt

Distribution: Lists A and M