

Administrators Operating Guide is intended to supplement and define Board policies, serve as administrative regulations and official directives.

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20.1 FAIR LABOR STANDARDS ACT (FLSA) - GENERAL GUIDELINES

The TISD is liable for any minimum wage and overtime entitlements incurred since April 15, 1985. As a general rule, executive, administrative, and professional employees (including teachers) are exempt from the pay requirements if they meet the exemption tests established for each category. Generally speaking, exemption is dependent on the employee's duties and responsibilities, and the salary paid, except in the case of teachers.

The Human Resources Department is responsible for monitoring internal compliance with provisions of the Fair Labor Standards Act.

The U. S. Department of Labor will investigate complaints of pay violations at a time yet to be determined.

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20.2 COVERAGE

School districts may use one of three primary tests to determine whether an employee is exempt from the FLSA as a bona fide executive, administrator or professional employee. Each of the three tests has a long and short version. A school district may apply the short test in claiming exemptions; however, an employee may qualify for exemption by meeting all of the criteria in either the long or short test for any category.

Job title alone, or the salary paid does not make an employee exempt. The entire exemption test, including both duties and responsibilities and the salary paid, must be met before an employee is considered exempt.

Exempt Employees

Exempt employees are those employees who are exempt from the minimum wage, overtime pay, and certain record keeping requirements of the Federal Wage-Hour Law.

Non-Exempt Employees

Non-exempt employees are those employees who are covered by the minimum wage and overtime provisions of the Fair Labor Standards Act (FLSA). Employees may be paid on an hourly or salary basis. The employees are required to record their time at the beginning and end of their scheduled shift into the time clock. Employees are required to punch out for lunch.

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20.3 JOB DESCRIPTIONS

The exempt or nonexempt status of each position is to be so noted on each job description. Positions will be re-evaluated for exemption status when job descriptions change.

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20.4 HOURS WORKED/ WORK WEEK

Hours Worked

Hours worked by an employee include all the time that an employee is required to be on duty, to be on the employer's premises, or to be at a required workplace by the employer. This is true even if the employee is not actively engaged in performing the work. Waiting time or periods of inactivity are considered time worked when the time belongs to and is controlled by the employer. However, periods during which an employee is completely relieved from duty, and which are long enough for the employee to use for his or her own purposes, are **not** considered time worked.

Meal periods do not have to be counted as time worked if the employee is completely relieved from duty and the meal period is thirty or more minutes in length. Rest periods or coffee breaks from five to twenty minutes in length must be counted as hours worked.

Work Week

A work week may be defined as a fixed and regularly recurring period of 168 hours- seven consecutive twenty-four hour periods. A work week for nonexempt employees in TISD begins at 12:01 a.m. on Monday and ends at 12:00 midnight on Sunday.

Each work week stands alone in computing overtime pay entitlements. Overtime rates will be paid only if more than forty hours are worked, regardless of which days are worked. Employee schedules may be altered within the work week to grant regular work time off when an employee has worked forty hours prior to the end of the week, so that the total hours within a week do not exceed forty. Equivalent hours of compensation time cannot be accrued and used in later weeks; they will carry over at time and one-half.

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20.5 OVERTIME PAY REQUIREMENTS

Overtime includes any hours worked in excess of **forty hours in the same work week**. Overtime compensation cannot be waived by voluntary agreement, and an employee cannot "donate" overtime or agree to reduced rates. Any agreement by the employer that no overtime will be worked, or that overtime work will not be paid unless authorized in advance, will not change the employee's legal right to receive pay or compensatory time for the overtime worked. Every work week stands alone in computing overtime pay and overtime worked. Different work weeks cannot be consolidated or averaged in determining overtime pay during a pay period.

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20.6 PART-TIME WORKERS

Employees who work fewer than forty hours per workweek are treated as part-time workers under the Fair Labor Standards Act, and as such, are not entitled to an overtime premium until they work at least forty hours in a workweek. The FLSA does not require overtime for part-time employees who work **beyond** their mutually agreed upon hours, but fewer than forty hours per week. It should be emphasized that FLSA requires an overtime premium **only** after forty hours are worked in a workweek.

All organizations must have prior approval of the Human Resources Department before employing any individual on a part-time basis. Human Resources will determine the hourly/daily rate.

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20.7 RECORDKEEPING/ RETENTION

Non-Exempt Employees

Time records of the daily and weekly hours worked during each period will be kept on all non-exempt employees. The employees are required to record their time into the time clock at the beginning and end of their scheduled shift, as well as their lunch break.

All records required by the FSLA are to be kept for three years.