

Guide to Fair Labor Standards Act (FLSA)

And PISD Regulations

What does it Regulate?

- Minimum Wage Requirements
- Employee Status
- Overtime Requirements
- Child Labor Provisions
- Recordkeeping

Who is Covered?

Use the salary schedule to determine who is eligible

- CO: Paraprofessional Schedule
- NE: Non-Exempt Schedule
- P: Police Department

Exempt Personnel are not eligible to earn compensatory or overtime (salary schedule: T, E and A)

Overtime Requirements

- Work over 40 hours for the week
- Overtime must be pay or comp time at hourly rate times 1.5
- The week is Monday through Sunday
- Every workweek stands alone

Typical ISD Compliance Issues

- Inappropriate or NO records of time worked
- Confusion about meal periods or breaks
- I have the best staff and no one will ever file suit against me

Typical Problem

- Long-time secretary devoted to boss and/or job
- Works “off the books” on special projects or to catch up on work
- Old boss retires
- Secretary conflicts with new boss
- Employee resigns and presents a bill for years of unpaid overtime
- District is guilty

The Price of Ignorance

- Burden of “proof” of innocence falls on employer
- Employees can recover up to double the amount of unpaid overtime for the past two or three years
- Employees may be awarded damages and attorneys’ fees as well

FLSA Litigation Against Texas School Districts – Found **Guilty**

Austin ISD

Garland ISD

Beaumont ISD

Houston ISD

Conroe ISD

New Waverly ISD

Dallas County Schools

North East ISD

Dallas ISD

Silsbee ISD

Can Leave Time Count as Time Worked?

- Not for the purpose of calculating overtime. Employee must actually work more than 40 hours in the work week.
- Paid leave days are included in the calculation of PISD service days.

Recordkeeping Requirements

Time Record must show:

- Sign in when you report to work and sign out when you leave each day
- If a secretary leaves the building for lunch, that person must sign out for lunch and sign in upon returning to work
- Supervisor must sign time record

What about lunch?

- Office/clerical personnel assigned to school campuses will work an eight-hour day with 30 minutes designated as "on-duty" lunch. No need to sign in or out for lunch, unless employee leaves the campus.
- All other non-exempt salaried employees will work an eight-hour day excluding time for lunch.

Meal Periods and Breaks

- The FLSA does not require meal or rest periods, holidays, or vacations.
- Breaks are compensable time
- Employees may be granted a break period but at the convenience of the work
- Breaks should not exceed 15 minutes at any one time, be limited to two per day, and should be near the middle of the first and/or second half of the workday

Can my secretary skip her two breaks and leave 30 minutes early?

- Breaks are paid time. Thus, if she leaves 30 minutes early, then she only worked 7.5 hours that day.

Can my secretary come in early and volunteer the time?

- Work performed by an employee that is within the normal duties of the employee, whether authorized or not, is compensable time under the FLSA.
- If a food service worker takes tickets at a school dance, it is not compensable time since it is different job.

Can my secretary take work home to catch up?

- If you allow this, she is on the clock for the time she works at home. Her PISD time record must reflect her correct time worked.

Can my secretary come in to work a day prior to her duty schedule to get a trade day?

- All earned Trade Days must be pre-approved by the associate superintendent for that location.
- Non-exempt employees are eligible to earn Trade hours from 8/1/xx until their position's start date.
- Hours worked prior to the non-exempt employee's duty schedule can be accrued as straight time (hour for hour).
- Those hours can be used for absences throughout the school year. Any trade hours earned but not used by the last working day for their position must be paid to the employee from the location's budget.

Non-Exempt Time Card Sample (week of early registration)

Day	In	Out	In	Out	In	Out	Hours Worked	SEMS Code	Absence Code	Absence Reason	Absence Hours	Absence Code	Absence Reason	Absence Hours	Absence Code	Absence Reason
Mon, Aug 8										000	Non-Working Day	8.00				
Tue, Aug 9										000	Non-Working Day	8.00				
Wed, Aug 10	7:00 AM	3:00 PM					8.00		-204	Trade Day Earned						
Thu, Aug 11	7:00 AM	3:00 PM					8.00		-204	Trade Day Earned						
Fri, Aug 12										000	Non-Working Day	8.00				
Sat, Aug 13																
Sun, Aug 14																
							Total	16.00								

# of Hours to Add to Comp Time>>>>>>>>>>>>>>	
Comp Time/Overtime Earned for Week	0.00 <-----

Week Ending **Aug 21, 2016**

Day	In	Out	In	Out	In	Out	Hours Worked	SEMS Code	Absence Code	Absence Reason	Absence Hours	Absence Code	Absence Reason	Absence Hours	Absence Code	Absence Reason
Mon, Aug 15	7:00 AM	3:00 PM					8.00									
Tue, Aug 16	7:00 AM	3:00 PM					8.00									
Wed, Aug 17	7:00 AM	3:00 PM					8.00									
Thu, Aug 18	7:00 AM	3:00 PM					8.00									
Fri, Aug 19	7:00 AM	3:00 PM					8.00									
Sat, Aug 20																
Sun, Aug 21																
							Total	40.00								

# of Hours to Add to Comp Time>>>>>>>>>>>>>>	
Comp Time/Overtime Earned for Week	0.00 <-----

	Week-1	Week-2	Week-3
Comp Time Opening Balance		0.00	0.00
Comp Time Earned+			
Less OT for Trade Day Hrs			
Additional Straight Hours+			

***Overtime must have prior approval by Principal/Supervisor.**

Employee Signature	Date	Trade Day Hours Opening Balance	0.00
		Trade Day Hours Earned 204	16.00

During the week, my secretary worked 10 hours on Friday to make up for a 6 hour day on Thursday. Is there overtime due?

- Overtime is based 40 hours worked for the week. Time worked on any day during the week is not relevant.
- The week is reviewed as a whole.
- The question you need to ask is: Did the employee actually work over 40 hours? If the answer is yes:
 - Depending on what the supervisor approved, the employee is owed compensatory or overtime hours.

Is overtime due?

Time absent from the job for holiday is not counted for overtime. Labor Day is not a paid day, it is a **non-working day**, 2 hours are paid straight time.

Hours Worked	SEMS Code	Absence Code	Absence Reason	Absence Hours	Absence Code	Absence Reason	Absence Hours	Absence Code	Absence Reason	Absence Hours	Total Hours
		000	Non-Working Day	8.00							8.00
8.00											8.00
8.00											8.00
8.00											8.00
10.00											10.00
34.00											
										Total Hours	42.00
										Additional Hours	2.00
										Overtime / Comp Time	

Add to Comp Time Balance

Comp Time/Overtime Earned for Week	0.00
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5	6 LABOR DAY	7 WORKED 8 HOURS	8 WORKED 8 HOURS	9 WORKED 8 HOURS	10 WORKED 10 HOURS	11
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Compensatory Time

- Earning and/or using Comp Time must be recorded on the time record card.
- The maximum of 60 hours of compensatory time can be accrued. The 60 hours of accrued compensatory time is equal to 40 hours of actual overtime worked.

Compensatory Time

- Compensatory time shall be used within the duty year in which it is earned.
- Supervisors are responsible for ensuring compliance with mandated provisions of the Fair Labor Standards Act and ensure an employee is compensated for overtime hours.

Compensatory Time

- Use of compensatory time may be at the employee's request or as determined by the employee's supervisor to protect the district's schedules and activities.
- District policy mandates that compensatory time is used prior to any other paid leave plan.
- If a non-exempt employee achieves the maximum accrual, resigns, retires, or is discharged at a time when he or she has a balance of unused compensatory time off, the employee will be paid for the unused compensatory.

Comp Time or Overtime

- Prior to working over 40 hours for the week, there must be an understanding or agreement in place to determine whether the time earned is comp time or overtime pay.
- A supervisor may offer compensatory time off in lieu of overtime pay. However, the employee has the right to accept or decline compensatory time and receive pay at time and one half.

Can you require your secretary to use comp time before using paid leave?

- Yes, board policy mandates that the District can require employees to exhaust all their accrued compensatory time before using any paid leave.

Required PISD Non-Exempt Time Record

To access the time cards on our new web page, please go to Departments, then Business and Financial.

The screenshot shows the website for Pasadena Independent School District's Business & Financial Services. The navigation menu includes Home, About, School Board, News, Community, Parents & Students, Staff, Departments, and Contact. The breadcrumb trail reads: Pasadena Independent School District » Departments » Departments A-B » Business & Financial Services. The page title is "Business & Financial Services". A welcome message states: "Welcome to Pasadena I.S.D. Business and Financial Services -- Financial Transparency Web Page". On the left sidebar, there is a list of links: Business Office Procedure Manual, Publications Forms, Check Registers, Finance, Budget, Accounting, Payroll, Search, Download Forms (highlighted with a red circle), Links, and Lawson. The main content area features a "Business Office Procedure Manual" icon, a section titled "Our Mission" with the text: "Our mission is to do our best by supporting the instructional goals for the District. We are here to serve you and make your job a pleasant experience every day. You call and we haul.", and a "Contact Information" section with an arrow pointing to it. The Lawson logo is displayed at the bottom.

District Approved Time Cards

Pasadena Independent School District » Departments » Departments A-B » Business & Financial Services » Download Forms

Download Forms

Document Container

Name	Modified
Accounting	26 June, 2013 05:25 AM
Travel	26 June, 2013 05:25 AM
Time Cards	26 June, 2013 05:25 AM
Tax Exemption	26 June, 2013 05:25 AM
Payroll & Consultant Pay	26 June, 2013 05:25 AM

Pasadena Independent School District » Departments » Departments A-B » Business & Financial Services » Download Forms

Download Forms

Document Container » Time Cards

Name	Modified
Non-Exempt_Time_Card_Template 6-20-13 (1)	15 July, 2013 09:13 AM
Exempt_Time_Card_Template 6-23-13	02 July, 2013 08:22 AM
Temp_Time_Card_Template-9-21-11.xls	26 June, 2013 09:25 AM
Tech_Time_Card_Template_8-1-11.xls	26 June, 2013 09:25 AM
Teacher Extra Pay Time Card.pdf	26 June, 2013 09:25 AM
Standby_Time_Card_Template-2-02-12 No Red.xls	26 June, 2013 09:25 AM
Police _Officer_Time_Card_Template_V2-4-1-13.xlsx	26 June, 2013 09:25 AM
Police _Officer_Time_Card_Template_V1-4-1-13.xlsx	26 June, 2013 09:25 AM
Manual Time Card-Spanish.pdf	26 June, 2013 09:25 AM
Manual Time Card-English.pdf	26 June, 2013 09:25 AM
Dispatchers_Time_Card_Template_4-1-13.xlsx	26 June, 2013 09:25 AM
Call Out_Pay_Time_Card_Template.xls	26 June, 2013 09:25 AM

Mandatory for Non-Exempt Staff

Available for Exempt Staff

Consequences for Falsifying PISD Time Record

- Any at-will or special assignment employee who knowingly violates the District's policy on leaves and absences shall be subject to dismissal.

Refer to Board Policy DEC (Local)

FLSA compliance issues and fines

Not paid for work done before and after shift

Employer: Giorgi Concrete, Detroit.

Business: Construction.

Law broken: Fair Labor Standards Act's (FLSA) OT and recordkeeping provisions.

Type of violation: The company didn't pay workers for mandatory pre- and post-shift work. This additional time often pushed employees over the regular 40-hour workweek, and they were not paid time-and-a-half for those hours. Additionally, the employer didn't keep accurate time records.

Penalty: \$106,334 in back wages to 38 employees and \$5,948 in fines.

Government office: Dept. of Labor, Hour and Wage Division, Detroit district office.

Other Pay Issues

Employee vs. Consultant

Employee Examples

- Temporary tutors
- Temporary help in the office
- Temporary help in the library
- Retired employee who comes back on part-time basis to do similar job
- PISD employee performing staff development, judging, or other jobs
- Active Full-time (AF) employees with or without a signed contract

Employee vs. Consultant

- PISD employee is an employee and is paid through payroll with board approved one-time pay codes
- Consultant owns business with separate tax ID number and meets IRS definition of Consultant is paid through Accounts Payable (AP) and may receive a 1099.
- To determine if someone qualifies as a consultant, complete the checklist on PISD web site and have no "yes" answers

Questions?