Compensation Laws

Fair Labor Standards Act (FLSA)

There are four (4) major provisions of the FLSA: Minimum Wage, Overtime Pay, Child Labor and Recordkeeping. Unless exempt, covered employees must be paid at least the minimum wage and not less than one and one-half times their regular rates of pay for overtime hours worked.

Positions considered exempt for FLSA purposes must meet one of the following exemptions:

- Executive
- Administrative
- Professional*
- Computer Employees
- Highly Compensated Employees

*The Department of Labor has determined that substitute teachers whose primary responsibility is teaching the same subjects as the everyday teacher for whom they substitute are exempt under the FLSA.

Positions typically considered non-exempt for the purposes of the FLSA are noted below:

- Paraprofessional staff (clerical, aides and technical staff)
- Auxiliary (custodial, maintenance, food service, transportation, security/police, etc.
- Substitute staff for paraprofessionals and auxiliary staff

The district has determined the exempt status of each position and recorded the status on a Job Description. Every employee is required to sign a job description each school year. The job description serves the function of notifying the employee of their respective job duties and responsibilities, but also their status under the FLSA.

The FLSA requires employers to:

- pay all covered nonexempt employees, for *all* hours worked, at least the Federal Minimum Wage of $7.25 per hour effective July 24, 2009;
- pay at least one and one-half times the employees' regular rates of pay for all hours worked over 40 in the workweek;
- comply with the youth employment standards; and
- comply with the recordkeeping requirements

The district has established a minimum hourly rate of $11.23 for all non-exempt regular employees and a minimum hourly rate of $9.35 for all non-exempt substitute, temporary and seasonal staff.

Hours Worked

Covered employees must be paid for *all* hours worked in a workweek. In general, compensable hours worked include all time an employee is on duty or at a prescribed place of work and any time that an employee is suffered or permitted to work. This would generally include work performed at home, travel time, waiting time, training, and probationary periods.

The district has established the following workweek for all non-exempt staff (DEAB Local):

Starts Sunday 12:00 am and ends 11:59 pm Saturday

Specific FLSA guidelines include the following [*excerpts from FLSA Fact Sheet #22 are denoted in italics*]:

Suffered or Permitted to Work: *Work not requested but suffered or permitted to be performed is work time that must be paid by the district. For example, an employee may voluntarily continue to work at the end of a shift to finish an assigned task or to correct errors. The reason is immaterial. The hours are work time and are compensable*.

If the supervisor allows or permits the employee to perform the work, the hours are compensable. If the employee is not authorized to work, but performs the work anyway, the employee shall be paid for compensable work hours, but shall be subject to disciplinary action for failure to follow an administrative directive.

Waiting Time: *Whether waiting time is hours worked under the Act depends upon the particular circumstances. The facts may show that the employee was engaged to wait (which is work time) or the facts may show that the employee was waiting to be engaged (which is not work time).*

If an employee is engaged to wait, such as a bus driver at a field trip, the waiting time shall be compensable. The District shall compensate the bus driver at his/her regular rate of pay for all driving and wait time hours.

Rest and Meal Periods: *Rest periods of short duration, usually 20 minutes or less, are common in industry (and promote the efficiency of the employee) and are customarily paid for as working time. These short periods must be counted as hours worked. Unauthorized extensions of authorized work breaks need not be counted as hours worked when the employer has expressly and unambiguously communicated to the employee that the authorized break may only last for a specific length of time, that any extension of the break is contrary to the employer's rules, and any extension of the break will be punished. Bona fide meal periods (typically 30 minutes or more) generally need not be compensated as work time. The employee must be completely relieved from duty for the purpose of eating regular meals. The employee is not relieved if he/she is required to perform any duties, whether active or inactive, while eating.*

If a non-exempt employee is not completely relieved from duty [during a non-paid lunch break], he/she shall be compensated for the meal period. It shall be the employee's responsibility to notify his/her immediate supervisor in the event that a meal has been missed or they were not completely relieved of duty during a meal period. The compensable meal period shall be added

to the employee's work hours in the Veritime timekeeping system.

Sleeping Time: *An employee who is required to be on duty for less than 24 hours is working even though he/she is permitted to sleep or engage in other personal activities when not busy. An employee required to be on duty for 24 hours or more may agree with the employer to exclude from hours worked bona fide regularly scheduled sleeping periods of not more than 8 hours, provided adequate sleeping facilities are furnished by the employer and the employee can usually enjoy an uninterrupted night's sleep. No reduction is permitted unless at least 5 hours of sleep is taken.*

Although rare, in the event that a non-exempt employee is on duty for more than 24 hours, such as a bus driver to an overnight field trip, the employee shall be provided with sleep facilities and at least five (5) hours of uninterrupted sleep time. A total of eight (8) sleep hours shall be excluded from the employee's work hours, unless the employee was granted less than eight (8) hours. In that event, the actual number of sleep hours shall be excluded from the compensable hours.

Travel time: *Attendance at lectures, meetings, training programs and similar activities need not be counted as working time only if four criteria are met, namely: it is outside normal hours, it is voluntary, not job related, and no other work is concurrently performed.*

Home to work travel: An employee who travels from home before the regular workday and returns to his/her home at the end of the workday is engaged in ordinary home to work travel, which is not work time.

*Home to Work on a Special One Day Assignment in Another City**:** An employee who regularly works at a fixed location in one city is given a special one day assignment in another city and returns home the same day. The time spent in traveling to and returning from the other city is work time, except that the employer may deduct/not count that time the employee would normally spend commuting to the regular work site.*

*Travel That is All in a Day's Work**:** Time spent by an employee in travel as part of their principal activity, such as travel from job site to job site during the workday, is work time and must be counted as hours worked.*

*Travel Away from Home Community**:** Travel that keeps an employee away from home overnight is travel away from home. Travel away from home is clearly work time when it cuts across the employee's workday. The time is not only hours worked on regular working days during normal working hours but also during corresponding hours on nonworking days. As an enforcement policy the Division will not consider as work time that time spent in travel away from home outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile.*

Generally, non-exempt employees shall be compensated for hours at training, workshops, etc. if the training is job-related. An exception shall be for training to maintain a license or certification required to maintain their position, such as bus driver certification.
Hours while traveling away from the home community for training shall be compensable during the employee's normal work schedule (Monday-Friday) and during the same work schedule on

Saturday and Sunday, regardless of the mode of transportation. Other hours while traveling shall be compensable if the employee is driving as opposed to a passenger.
FLSA Fact Sheet #22 – Hours Worked

Overtime

Unless specifically exempted, employees covered by the Act must receive overtime pay for hours worked in excess of 40 in a workweek at a rate not less than time and one-half their regular rates of pay. The regular rate of pay includes all remuneration for employment except certain payments excluded by the Act itself.

Nonexempt employees are paid on either an Annualized Salary Method or Direct Hourly Method. All non-exempt employees shall be paid based on the *actual number of hours* worked per workweek. Employees paid on an annualized salary method are generally paid for a 40-hour workweek and do not earn additional pay unless they work more than 40 hours.

Employees paid on an Annualized Salary Method include:

All Full time and part-time staff

Employees paid on a Direct Hourly Method include:

Temporary and seasonal staff

<u>Employees paid on an Annualized Salary Method</u>

The total hours worked per workweek will be reviewed to determine if the employee exceeded their normal, annualized work hours. In the event that the employee exceeded their normal, annualized work hours, he/she shall be compensated for the additional hours in compensatory time (default) or paid time, as approved by the immediate supervisor. In the event that the employee did not work their normal, annualized work hours, he/she shall apply paid leave hour or be docked their regular rate of pay for the missed hours.

<u>Employees paid on a Direct Hourly Method</u>

The total hours worked per workweek will be extracted from the automated timekeeping system and imported to the payroll system (Ascender). The Administrative Assistant will verify that all hours worked collected through the Veritime system and imported to Ascender match. Employees are encouraged to track their work hours to verify the total hours paid on their paycheck match their actual hours worked.

The FLSA provides that where State or local government employees, solely at their option, work occasionally or sporadically on a part-time basis for the same public agency in a different capacity from their regular employment, the hours worked in the different jobs shall not be combined for the purpose of determining overtime liability under the Act. (CFR 553.30)

The FLSA states that where an employee in a single workweek works at two or more different types of work for which different straight-time rates have been established, the regular rate for that week is the weighted average of such rates. That is, the earnings from all such rates are added together and this total is then divided by the total number of hours worked at all jobs.

The district has ***opted*** to pay overtime hours, regardless of whether they were worked solely at the employee's option on an occasional or sporadic basis, at the employee's blended overtime rate of pay calculated in the manner below.

Overtime pay for a single type of work [with a single hourly rate] shall be paid at 1 ½ times the regular hourly rate.

Overtime pay for multiple hourly rates shall be paid at 1 ½ times the ***blended average of the pay rates***. For example, if a Para employee works 40 hours at his/her regular hourly rate of $16.41 and an additional 20 hours at an hourly rate of $20.16, he/she would be paid at the blended average of the hourly rates ($27.44). Illustration below:

Blended Overtime Calculation Sample			
Position	**# Hours**	**Hourly Rate**	**Total**
Paraprofessional	40	$16.41	$656.40
Bus Driver	20	$20.16	
		= $36.57	
		/ 2	
		= $18.29	
		x 1.5	
Blended OT Rate:		= $27.44	
Addn'l Pay (20 Hours @ Blended OT Rate:			$548.80
Total Gross Pay:			$1,205.20

Child Labor

The FLSA restricts the work hours and types of occupations for workers between the ages of 14 and 17. The most restrictive limitations are for workers between the ages of 14 and 15. The

limitations include the following:

- *outside school hours;*
- *no more than 3 hours on a school day , including Fridays;*
- *no more than 8 hours on a nonschool day;*
- *no more than 18 hours during a week when school is in session;*
- *no more than 40 hours during a week when school is not in session;*
- *between 7 a.m. and 7 p.m.—except between June 1 and Labor day (extended to 9 p.m.)*

The Human Resources department shall record the age of all minor workers in the Ascender HR System. The Payroll department shall monitor compliance with the FLSA as it relates to type of occupation and work hour limitations. The immediate supervisor shall be provided information related to the limitations for their respective minor worker(s). **The district has set the minimum hiring age at 16 years of age and 21 years of age for Substitute Teachers.**

Compensatory Time

Employees may be compensated for overtime at time-and-a-half rate with compensatory time off (comp time) or direct pay. **The district has opted to pay compensatory time, unless otherwise approved by the appropriate administrator.** The following applies to all nonexempt employees:

- Employees can accumulate up to 60 hours of comp time.
- Comp time must be used in the duty year that it is earned.
- Use of comp time may be at the employee's request with supervisor approval, as workload permits, or at the supervisor's direction.
- An employee shall be required to use comp time before using available paid leave (e.g., sick, personal, vacation).

Recordkeeping (Timekeeping System)

Every covered employer must keep certain records for each non-exempt worker. The Act requires no particular form for the records, but does require that the records include certain identifying information about the employee and data about the hours worked and the wages earned. The law requires this information to be accurate.

The district has implemented the Frontline (Veritime) timekeeping system to collect *all* work hours for non-exempt employees. **All work hours for the regular job, extra-duty assignments, training, missed lunches, waiting time, etc. shall be entered in the Veritime timekeeping system.**

The Administrative Assistant shall extract all work hours from the Veritime system and import to the Ascender payroll system. The overtime option is turned off for the non-exempt employees paid on an annualized salary method (Type 2) since the district has opted to compensate all non-exempt employees for extra work hours with compensatory time. Exceptions to the default option of compensatory time, such as overtime pay, will be manually adjusted in the Ascender system by the Administrative Assistant. Overtime hours for all other non-exempt employee paid on the direct hours method (Type 3) shall be imported from the Veritime system to the Ascender payroll system.

It shall be an employee's responsibility to ensure that all work hours are submitted in accordance with district pay cycles through the Veritime timekeeping system.

The appropriate immediate supervisor shall verify, reconcile and submit all time cards for non-exempt staff assigned to their campus or department according to the established payroll pay periods and deadlines. Refer to Pay Date Schedules.

Automated Timekeeping System

The Veritime system allows an employee to ―clock in and out by logging into a computerized time clock terminal. The data is polled by a network server computer and can be edited or corrected by an authorized Administrator from a personal computer. Work detail reports are generated and provided to supervisors for approval and management purposes.

Veritime Procedures:

The following procedures are to be used by all non-exempt staff for reporting all work hours through the Veritime system:

1. An employee may not report or be on a paid status until they login and clock in with their unique login credentials.
2. An employee may clock in up to seven and one-half (7 ½) minutes prior to the official starting time.
3. An employee may clock in up to seven and one-half (7 ½) minutes after the official starting time. This grace period will not be considered an excuse for tardiness.
4. An employee may clock out up to seven and one-half (7 ½) minutes after the official departure time.
5. An employee may clock out up to seven and one-half (7 ½) minutes prior to the official

departure time. This grace period will not be considered a reason for early departure from assigned schedule.
6. An employee must clock out when leaving their assigned work schedule or campus for personal reasons unrelated to assigned tasks.

All time clock corrections shall be submitted by the non-exempt employee on the appropriate form and submitted to their immediate supervisor for approval and entry in the timekeeping system. The Time Clock Plus Correction Form (included in the Appendix) must be used to report all time clock corrections such as missed punches, lost or misplaced time clock ID card (badge), etc.

In addition, all leave and absences for non-exempt staff shall be entered in the Time Clock Plus system by the respective campus or department after the absence has been submitted by the employee to through the AESOP system. All absences for non-exempt employees are extracted from the Time Clock Plus system and imported to the TxEIS payroll system by the Payroll Director. Corrections and/or adjustments shall be posted directly in the TxEIS system by the Payroll Director.

Rounding Time Chart

According to the FLSA, an employer may disregard working time that is insubstantial or insignificant periods of time beyond the scheduled working hours, which cannot as a practical administrative matter be precisely recorded for payroll purposes. These periods of time are referred to as de minimis. Employers should establish rounding rules. (CFR 785.47)

Minutes rounding rules:

0 – 7 minutes = 0
8 – 22 minutes = .25
23 - 27 minutes = .50
38 – 52 minutes = .75
53 – 60 minutes = 1.00

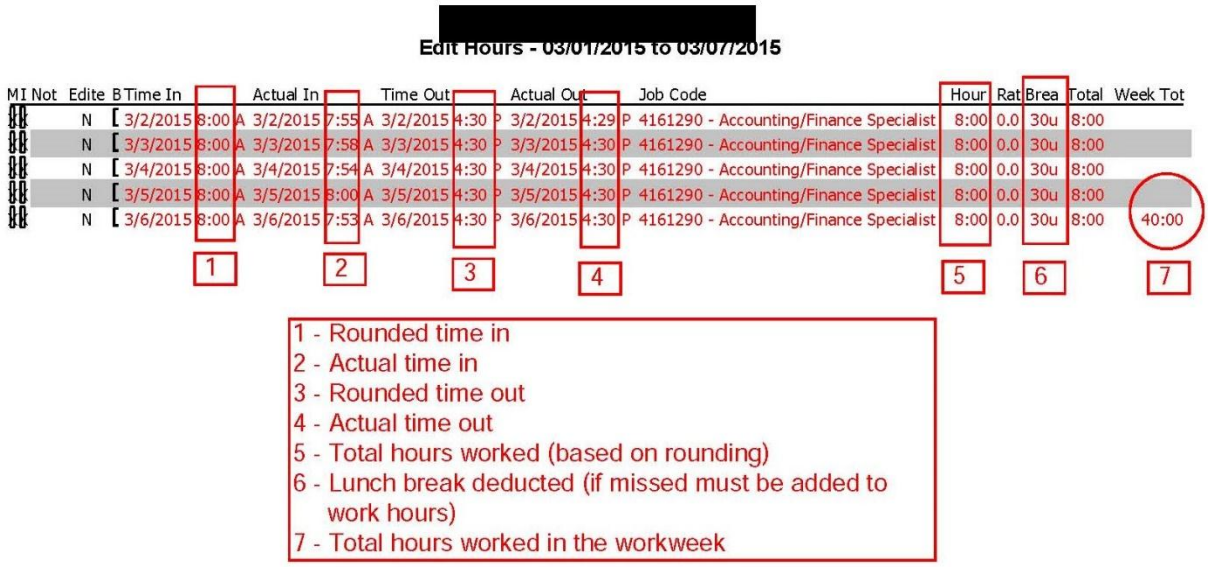
Sample Timesheet

Every non-exempt employee should become familiar with how to read their timesheet. An Edit Hours Report reflects the following information:

- Employee name
- Time period – workweek
- Date
- Time in – rounded time and actual time
- Time out – rounded time and actual time
- Job Code
- Total hours per day
- Lunch break deducted (employee must notify their immediate supervisor if a scheduled, uninterrupted lunch break was not taken, the supervisor will add the lunch break to working hours)
- Total hours during the workweek

A sample of an Edit Hours report is illustrated below. The sample includes all work hours from

Monday through Friday, except for the clock out time on Friday. At any given point in time, the time sheet will reflect the total number of hours worked for the workweek or time period selection.



[redacted]

Edit Hours - 03/01/2015 to 03/07/2015

MI	Not	Edite	B	Time In		Actual In		Time Out		Actual Out		Job Code	Hour	Rat	Brea	Total	Week Tot
		N	[	3/2/2015	8:00 A	3/2/2015	7:55 A	3/2/2015	4:30 P	3/2/2015	4:29 P	4161290 - Accounting/Finance Specialist	8:00	0.0	30u	8:00	
		N	[	3/3/2015	8:00 A	3/3/2015	7:58 A	3/3/2015	4:30 P	3/3/2015	4:30 P	4161290 - Accounting/Finance Specialist	8:00	0.0	30u	8:00	
		N	[	3/4/2015	8:00 A	3/4/2015	7:54 A	3/4/2015	4:30 P	3/4/2015	4:30 P	4161290 - Accounting/Finance Specialist	8:00	0.0	30u	8:00	
		N	[	3/5/2015	8:00 A	3/5/2015	8:00 A	3/5/2015	4:30 P	3/5/2015	4:30 P	4161290 - Accounting/Finance Specialist	8:00	0.0	30u	8:00	
		N	[	3/6/2015	8:00 A	3/6/2015	7:53 A	3/6/2015	4:30 P	3/6/2015	4:30 P	4161290 - Accounting/Finance Specialist	8:00	0.0	30u	8:00	40:00

1 2 3 4 5 6 7

1 - Rounded time in
2 - Actual time in
3 - Rounded time out
4 - Actual time out
5 - Total hours worked (based on rounding)
6 - Lunch break deducted (if missed must be added to work hours)
7 - Total hours worked in the workweek

A sample timecard is described and illustrated in a presentation titled, *Everything You Need to Know About Your Reading Your Timecard*. The presentation is available on the Business Department webpage, Employee Training Resources at:
http://www.lacklandisd.net/departments/business_department/employee_training_resources/

An employee is responsible for maintaining possession of his/her ID badge at all times for the purpose of clocking in/out. Employees must report lost badges or temporary misplacement of badges to their immediate supervisor. Failure or non-compliance with the district's timekeeping procedures shall be subject to appropriate disciplinary action.

An employee's due process for violation of the district's timekeeping procedures shall be as follows:

1. Oral warning/discussion
2. Written counseling document
3. Recommendation for suspension
4. Recommendation for termination

Falsifying timekeeping records or directing or coercing others to do is a violation of the *Educator Code of Ethics*. [Refer to Board Policy DH Legal, Local and Exhibit]

An employee who falsifies their timekeeping record or the timekeeping record of another employee shall be subject to immediate termination. Falsifying of time cards may include, but is not limited to: Punching in or out for another employee or having another employee punch in or out for them; fraudulent time entry, photo copying of one's own or someone else's badge.