

PERSONNEL POLICY
FAUQUIER COUNTY GOVERNMENT/PUBLIC SCHOOLS
FAUQUIER COUNTY, VIRGINIA

Policy Title:		Effective Date:
Compensatory Time/ Overtime Compensation	Section No. 49	12/1/97 Supersedes Policy: New

PURPOSE:

The purpose of this policy is to set forth the procedure to establish guidelines for the administration of compensatory time/overtime compensation and the payment for work performed in an overtime capacity. This policy summarizes the general requirements imposed upon the County and School Board by the Fair Labor Standards Act and applicable regulations, but does not restate these regulations and statutes. The Fair Labor Standards Act and regulations interpreting the Act are extensive and additional regulatory requirements or exemptions may apply to specific employment circumstances. Issues which are not specifically addressed in this policy shall be resolved by reference to appropriate sections of the Fair Labor Standards Act and regulations.

SCOPE:

This policy applies to all Fauquier County and School Board employees. Under the Fair Labor Standards Act (FLSA) (29 U.S.C. Section 207(a)), a governmental employer must pay an employee overtime or compensatory time for hours worked in excess of 40 per week. The overtime premium is one and one-half times the regular rate at which he/she is employed or compensatory time of one and one-half hours for every overtime hour worked. However, the FLSA (29 U.S.C. Section 207(k)), provides for a partial exemption for any employee of a public agency engaged in law enforcement or fire protection. Under section 207(k) of the FLSA, employees engaged in fire protection or law enforcement activities with 28-consecutive day work periods are entitled to one and one-half times their regular rate of pay or compensatory time off if they work excess hours. For fire protection employees, overtime must be paid for hours worked beyond 212 during the 28-day work period; for law enforcement employees, working more than 171 hours during the 28-day work period triggers the overtime premium. Covered employees may accrue not more than 240 hours of compensatory time. Covered employees engaged in public safety or law enforcement activities may accrue not more than 480 hours of compensatory time. Any covered employee in the two respective categories who accrues 240 hours or 480 hours of compensatory time off shall, for additional overtime hours of work, be paid overtime compensation at a rate of one and one-half times their rate of pay. There are five categories of employees who are not

covered (exempt) by the FLSA. These employees include elected officials, appointed employees, executive employees, administrative employees and professional employees.

DEFINITIONS:

1. Exempt Status (not covered by FLSA) - This designation is assigned to all positions exempt from the requirements of the FLSA, and therefore, not eligible for overtime pay. The classifications and descriptions set forth herein are general in nature and are not intended to restate the requirements and guidelines set forth in the Fair Labor Standard Act and Code of Federal Regulations.

A. Elected Officials - Includes all officers, those elected by the people or by the governing body of the municipality or political subdivision who act in administrative capacities and are to serve for a definite term of office.

B. Appointed Employees - Includes those individuals appointed and empowered in accordance with the charter and/or by-laws of a municipality. Employees are usually appointed by the Board of Supervisors/School Board to serve in a specific responsible position and are to serve at the pleasure of the Board.

C. Executive Employees - These employees must be paid at least \$250/week on a salary basis and have as their primary duty the management of the enterprise or a customarily recognized department of a subdivision; and must customarily and regularly direct the work of two or more employees in the enterprise, department or subdivision.

D. Administrative Employees - These employees must be paid at least \$250/week on a salary basis and have as their primary duty office or non manual work directly related to the management employer. An administrative employee is required to possess knowledge of the principles, concepts policies, and objectives applicable to a program or administrative area. Although administrative work may not require education in a specialized field, it does involve skills, e.g., analytical, research, writing, and judgment typically demonstrated by substantial, responsible experience (the equivalent of a college level education), and must exercise discretion and independent judgment.

E. Professional Employees - These employees must be paid at least \$250/week on a salary basis and have as their primary duty work requiring knowledge of theory and principles of a subject matter typically gained through a college degree or comparable experience, and must consistently exercise discretion and independent judgment.

Overtime Compensation

2. Non-Exempt Status (covered by FLSA) - This designation is assigned to all positions not exempt from the requirements of the FLSA and, therefore, must receive overtime pay or appropriate compensatory time off in lieu of monetary overtime compensation. The work is typically of a combination of technical knowledge, knowledge acquired through experience, and/or manual skills. The work requires a practical knowledge and is generally in support of an administrative type position or professional position. Typical classes in this status would be manual labor, clerical, assistant or technician work.

3. Work Period - The work period for determining overtime compensation for eligible (non-exempt) employees shall be a regular work week commencing Saturday, 12 midnight, and continuing for 168 consecutive hours (7 consecutive 24-hour periods) until 11:59 on the following Saturday. Exception: law enforcement and fire protection employees who come under section 207(k).

4. Overtime Hours - Overtime hours for determining overtime compensation are defined as those hours **actually** worked, excluding a duty free meal break, which exceeds forty (40) hours during the seven-day work week period. Exception: law enforcement and fire protection employees who come under section 207(k).

PROCEDURES:

1. Administration - The authorization and control of all overtime work is the direct responsibility of the administrative staff. Overtime assignments shall be permitted only when required by operational necessity and without which the normal operation of the department or school cannot continue. Administrators must ensure that employees do not perform unauthorized overtime hours without prior approval of their supervisor. Failure to obtain such prior approval of additional work may result in disciplinary action.

A. Approval of Compensatory Time/Overtime - All overtime shall be approved **in advance** by either the County Administrator or the Superintendent of Schools or designee at the request of the County Department Head/Constitutional Officer, School Principal, or designee. In case of an emergency, the supervisor in charge shall have authority to assign the overtime to relieve the emergency. In these instances, the emergency and the resulting overtime shall be reported to the County Department Head/Constitutional Officer or the appropriate school authority as soon as possible, but no later than the next working day.

B. Reporting Compensatory Time/Overtime - All non-supervisory employees are required to record the number of hours worked per day (including overtime/compensatory time) on time sheets. Employees will report to work, return to work, or remain at work on an overtime basis only when specifically authorized to do so by their immediate supervisor.

C. Responsibility of Supervisors - Administrators and supervisory personnel are responsible for ensuring that time sheets are completed and retained and that the number of hours recorded is accurate and in compliance with this policy and the Fair Labor Standards Act. Time sheets are to be retained for five years from the end of the fiscal year in which the last entry was made or until audited.

2. Compensatory Time - Payment of compensatory time in lieu of overtime is a condition of employment of all County employees except those engaged in law enforcement and fire protection. The Superintendent of Schools and the School Board shall determine which employees shall be paid compensatory time in lieu of overtime. Compensatory time shall be granted to eligible employees at a rate of one and one-half hours for each hour of overtime employment in excess of forty (40) hours. An employee engaged in such work may accrue not more than 240 hours of compensatory time (annually during a calendar year) for overtime worked (exception: law enforcement and fire protection employees may accrue not more than 480 hours of compensatory time annually). An employee who has accrued compensatory time off, and who has requested the use of such compensatory time, shall be permitted by the administration to use such time within a reasonable period after making the request if the use of compensatory time does not unduly disrupt the operations of the County Government/School Division. Supervisors shall make every effort to schedule employees for use of compensatory time as soon as possible after the compensatory time is earned.

3. Overtime Compensation - Any non-exempt employee not compensated through payment of compensatory time for hours worked in excess of 40 hours in a work week, shall be paid no less than one and one-half times his/her regular rate of pay (exception: law enforcement and fire protection employees who come under section 270(k)). In determining the eligibility for overtime compensation at the time and one-half rate, hours not actually worked will be excluded. Examples of exclusions from the computation of the time and one-half rate are, but are not limited to: annual leave, sick leave, civil leave, holiday leave, and suspension. Overtime worked amounting to less than one quarter hour on a regular work day shall not be compensated. Overtime work amounting to sixteen minutes or more shall be compensated to the nearest half hour.

4. Dual Positions - an employee shall devote his/her primary attention to the requirements of the full-time position. Employees shall only be employed in one Board of Supervisors/School Board position with one exception: if the employee's work hours are less than forty (40) in a seven day period, that employee will be permitted to work at a part-time position for any additional hours until the total hours of both positions reach forty (40) hours. The assignment of a second position with the County/School system shall be prohibited if the maximum is more than forty (40) hours for both positions inclusive.
5. Voluntary Services - The volunteering of services by the employee as a "non paid" volunteer to perform the same type of work that is performed as a "paid" employee for the same public agency shall be prohibited. The determination of whether the two types of work are the same shall be made by the County Administrator/Superintendent or a designee. It shall be the employee's responsibility to notify his/her supervisor prior to volunteering his/her services for any Board of Supervisors/School Board activity.
6. Promotion - Any non-exempt employee who is promoted to an exempt position and who has accrued authorized compensatory time shall be paid for the unused compensatory time at their rate of pay, prior to exempt status, when the promotion is effective.
7. Termination of Employment - An employee who has accrued authorized compensatory time upon termination of employment, shall be paid for the unused compensatory time.