

**DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF EDUCATION SERVICES
Policies and Procedures**

**Overtime Compensation Policy for Subject Employees:
Employees Subject to the Fair Labor Standards Act (FLSA)**

Effective Date: April 22, 2005
Original Effective Date: January 1, 2002
Reference:

Purpose:

To clarify the State Personnel Policy regarding subject employees who must receive overtime compensation and how compensatory time can be used in lieu of overtime payment, and to establish consistency of policy application across the Office of Education Services (OES) for employees subject to FLSA.

Policy:

- A. As indicated in the [State Personnel Manual](#), it is the policy of the State of North Carolina, whenever possible, to give compensatory time off, in lieu of monetary compensation for hours worked in excess of 40 hours per work week. Management shall schedule compensatory time off, and reasonable effort shall be made to accommodate the employee as to such scheduling.
- B. An employee shall be given compensatory time off on the basis of one and one-half times the amount of time worked beyond 40 hours during a work week
1. Compensatory time shall be taken within the calendar year it is earned, January 1 to December 31
 2. Employees following a school calendar have from July 1 to June 30 to take earned compensatory time off
- C. Compensatory time may be accumulated up to the maximum hours as follows:
- **12 months employees:** 60 hours (40 hours straight time)
 - **11 months employees:** 55 hours 30 minutes (37 hours straight time)
 - **10 months employees:** 49 hours 30 minutes (33 hours straight time)

- D. If compensatory time is not taken by the end of the calendar year or the school calendar, the overtime shall be paid out monetarily and included in the employee's next regular paycheck

- E. All work in excess of 40 hours must be approved in advance by the School Director, Preschool Director, or Superintendent. However, it is recognized that employees who are subject to FLSA that work in excess of 40 hours, whether authorized or unauthorized, are entitled under FLSA to be compensated through compensatory time off as provided in this policy. ***Employees who repeatedly ignore supervisory instructions not to work unauthorized hours in excess of 40 may be subject to disciplinary action, up to and including dismissal.*** This includes any work employees may take home with them. The work week begins on Sunday and ends on Saturday. The meal period may be scheduled within the normal work hours of the employee and may not be scheduled at the end of the work day. A meal period is a span of at least 30 consecutive minutes of uninterrupted, duty free, time during a regular work day. Direct care staff may be expected to work a continuous shift without a meal period.

- F. Compensatory time earned must be exhausted in the following order of priority:
 - 1. to cover any outstanding adverse weather balances
 - 2. prior to exhausting any vacation leave or sick leave

- G. Subject employees will be paid for unused compensatory time at the time of transfer to another division/agency or separation from state employment

- H. Prior to employment, each successful candidate for State employment in a FLSA subject position must sign a form acknowledging that:
 - 1. It has been explained to him/her that it is the State's and OES's policy to give compensatory time off, in lieu of monetary compensation, for hours worked in excess of 40 hours per work week
 - 2. Repeatedly ignoring the supervisor's instructions not to work in excess of 40 per week can lead to disciplinary action, up to and including dismissal from employment

I, _____, have read, understand, and received a copy of the **Compensatory Time Policy for Subject Employees** above.

Employee's Signature

Date