

BALTIMORE COUNTY PUBLIC SCHOOLS

Dr. Joe A. Hairston ♦ Superintendent ♦ 6901 Charles Street ♦ Towson, MD ♦ 21204

TO: All Baltimore (County Instructional) Assistants and Clerical Employees (BACE) Employees

FROM: Dr. Donald Peccia, Assistant Superintendent
Department of Human Resources

CC: J. Robert Haines, Esq.
Deputy Superintendent

DATE: November 26, 2008

RE: Compensation to BACE-represented Employees

Purpose. This memorandum is directed to employees represented by the BACE bargaining unit. The federal Fair Labor Standards Act (FLSA) and the negotiated agreement with BACE require that all represented employees be compensated for all hours worked. The FLSA refers to these employees as “non-exempt.” That is, they are NOT exempt from the provisions of the law. This means that, as hourly employees, they must be paid for all hours worked and are eligible for overtime at time-and-one-half their regular rate of pay for all hours worked over 40 in a work week. The federal law also allows public sector employers the option of offering compensatory (comp) time in lieu of money. The BACE Master Agreement provides for compensatory time in lieu of money. The regulations governing overtime also apply to comp time. Below is a brief description of the BACE unit’s work weeks. Guidelines and instructions for compensating these hourly employees follow.

BACE-represented employees include, but are not limited to, classified employees, office professionals, and paraeducators. The table below shows the work day, work week, lunch break, and overtime rules for BACE- represented employees.

	Central Office	School Based	Beyond Scheduled Hours
<u>Office Professional and Classified</u> Work day Work week Duty-free lunch	7 hours 30 minutes 37 hours 30 minutes 45 minutes (the duty-free lunch is over and above the 7 hr 30 min day)	7 hours 30 minutes 37 hours 30 minutes 30 minutes (the duty-free lunch is over and above the 7 hr 30 min day)	<ul style="list-style-type: none"> • Regular hourly rate of pay up to 40 hours. Time-and-one-half for all hours worked in excess of 40 in a workweek. • Comp time, in lieu of money, but must be calculated in same way as overtime.
<u>Paraeducators</u> Work day Work week Duty-free lunch	6 hours 30 minutes 32 hours 30 minutes 30 minutes (the duty-free lunch is over and above the 6 hr 30 min day)	6 hours 30 minutes 32 hours 30 minutes 30 minutes (the duty-free lunch is over and above the 6 hr 30 min day)	<ul style="list-style-type: none"> • Regular hourly rate of pay up to 40 hours. Time-and-one-half for all hours worked in excess of 40 in a work week. • Comp time, in lieu of money, but must be calculated in same way as overtime.

General Guidelines and Instructions

- 1) Non-exempt hourly employees should not begin working more than a few minutes prior to their scheduled start times, nor should they continue working more than a few minutes beyond their scheduled end time, unless specifically authorized by an appropriate administrator.
- 2) Employees represented by BACE are entitled to a duty-free lunch (an office professional who eats lunch at his/her desk and answers the phone or does other work is entitled to compensation for this time worked) and breaks. The BACE Master Agreement also includes a reference to breaks: "Breaks, in addition to the lunch period, shall be provided. They shall be scheduled with the employee's immediate supervisor." A Memo of Understanding between the Board of Education and BACE says that BACE-represented employees are entitled to two duty-free breaks of 15 minutes each per duty day. Breaks are a part of the employee's regular work day; they are a part of their scheduled hours.
- 3) Non-exempt employees are to use their work time to complete their required work and they are to inform their supervisor if there appears to be more work than the time in which to complete it.
- 4) Employees **MUST obtain authorization** from an appropriate administrator **PRIOR** to working beyond their scheduled hours. The employee who agrees to work beyond his/her scheduled hours and the administrator must agree to the form of compensation **PRIOR** to the work being started. Non-exempt employees are not automatically granted permission to work beyond their scheduled hours. Requests to work beyond scheduled hours may be denied. Employees who request pay rather than comp time may be denied.
- 5) Non-exempt employees are to refrain from working beyond their scheduled hours without **prior authorization** by an appropriate administrator.
- 6) It is **UNLAWFUL** for non-exempt employees to work "off the clock." Employees may not "volunteer" to work beyond their scheduled hours. It is important to note that if an administrator permits or allows an employee to work, then BCPS is obligated to compensate him/her for all hours worked.
- 7) Non-exempt employees who take work home with them **MUST** have prior authorization and their additional hours worked must be reported so that they are compensated for all hours worked. This includes employees who send or respond to work-related emails at home. This time is compensable.
- 8) Employees who agree to comp time in lieu of money must be allowed to take their comp time within a "reasonable time," preferably within the next pay period.
- 9) Comp time must be calculated in the same manner as overtime (i.e., hour for hour up to 40 hours in a work week and at time-and-one-half for all hours worked over 40 in a work week).
- 10) Twelve-month employees who are not able to use their earned comp time by the end of the fiscal year must be paid for all hours earned as comp time. Ten-month clerical/classified employees and paraeducators who are not able to use their earned comp time by the end of the school year must be paid for all hours earned as comp time. This requires administrators to carefully monitor their employees' hours worked to ensure that they are compensated correctly.
- 11) Employers may **NOT** "average out" one week's overtime or comp time in the following work week; each work week stands alone. By law and agreement, **ALL** of these employees are entitled to overtime compensation when they work more than 40 hours in a work week.

PROCEDURES FOR REPORTING TIME WORKED BEYOND SCHEDULED HOURS FOR BACE-REPRESENTED EMPLOYEES

- 1) Discuss with your supervisor/administrator the reason(s) for planning to work beyond your scheduled hours.
- 2) If your supervisor/administrator approves your working beyond your scheduled hours, obtain and complete the authorization section, Part I, of the form, "Authorization to Work Beyond Scheduled Hours." Estimate the amount of time you will work beyond your scheduled hours and agree upon a form of compensation (i.e., money or comp time) with your supervisor/administrator. Your supervisor/administrator **MUST** sign the form **PRIOR** to your working beyond your scheduled hours.
- 3) On a daily basis complete Part II of the form providing a brief description of the work performed and report the actual amount of additional time worked that day. Report the additional time worked in hours and minutes.
- 4) At the end of the pay period, obtain your supervisor/administrator's signature of approval for the time worked.
- 5) Make a copy of the form for your records.
- 6) Give the completed form to your school/office payroll timekeeper who will report the additional time worked to the Office of Payroll. Based upon your prior agreement with your supervisor/administrator, the school/office payroll timekeeper will report the additional time worked for **PAY** or **COMP** time. The timekeeper will report this time on the Biweekly Payroll Report.
- 7) A new "Authorization to Work Beyond Scheduled Hours" form should be completed for each pay period in which approval has been given to work beyond scheduled hours.
- 8) Use the Notification of Absence (NOA) card to request usage of accrued comp time. Note that there is a new code, "**N**," which should be used to request the use of accrued comp time. Once approved, your supervisor/administrator will give the completed NOA card to your school/office payroll timekeeper who will report the usage to the Office of Payroll on the Biweekly Payroll Report.
- 9) Accrued and used comp time will appear on employee pay stubs, in Employee Self Service, and on other leave usage reports.
- 10) Unused comp time will be paid at the end of the school/fiscal year.

Questions regarding these procedures should be directed to your supervisor or to Dr. Fran Allen, Manager, Office of Personnel Services, at 8936. Questions concerning the recording and usage of time worked should be addressed to the Office of Payroll at 4240.