

COMPENSATION AND BENEFITS  
SALARIES

DEA  
(LEGAL)

MINIMUM WAGE AND  
OVERTIME

Employees not exempt under the Fair Labor Standards Act shall be paid minimum wage and receive compensation for overtime under the conditions specified in the Act. *29 U.S.C. 206, 207*

Nothing in the Fair Labor Standards Act or its implementing regulations prohibits the College District from compelling the use of accrued compensatory time. *Christensen v. Harris County, 529 U.S. 576 (2000)*

EMPLOYEE WITH  
MULTIPLE  
APPOINTMENTS

A full-time employee of the College District who has appointments to more than one position at the same College District may receive pay for working more than 40 hours in a week if the College District determines that pay in lieu of compensatory time is in the best interests of the College District. *Education Code 51.963*

MERIT SALARY  
INCREASES

The College District may grant merit salary increases, including one-time merit payments, to employees. A merit salary increase made under Education Code 51.962 is compensation for purposes of Chapter 659, Government Code, and salary and wages and member compensation for purposes of Title 8, Government Code. The College District may pay a merit salary increase from any funds. Before awarding a merit salary increase, the College District must adopt criteria for the granting of merit salary increases. To be eligible for a merit salary increase, an employee must have been employed by the College District for the six months immediately preceding the effective date of the increase and at least six months must have elapsed since the employee's last merit salary increase.

For employees employed by the College District for more than six months, the requirement that six months elapse between merit salary increases does not apply to a one-time merit payment if the chief administrative officer of the College District determines in writing that the one-time merit payment is made in relation to the employee's performance during a natural disaster or other extraordinary circumstance. *Education Code 51.962*

PAY INCREASES

The College District shall not grant any extra compensation, fee, or allowance to a public officer, agent, servant, or contractor after service has been rendered or a contract entered into and performed in whole or in part. *Tex. Const. Art. III, Sec. 53* [See CE(LEGAL)]

SALARY ADVANCES  
AND LOANS

The College District shall not lend its credit or gratuitously grant public money or things of value in aid of any individual, association, or corporation. *Tex. Const. Art. III, Sec. 52; Brazoria County v. Perry, 537 S.W.2d 89 (Tex. Civ. App.—Houston [1st Dist.] 1976, no writ)*

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FAIR LABOR  
STANDARDS ACT

Unless an exemption applies, the College District shall pay each of its employees not less than minimum wage for all hours worked.

MINIMUM WAGE  
AND OVERTIME

*29 U.S.C. 206(a)(1)*

Unless an exemption applies, the College District shall pay an employee not less than one and one-half times the employee's regular rate of pay for all hours worked in excess of 40 in any workweek.

*29 U.S.C. 207(a)(1); 29 CFR part 778*

BREAKS FOR  
NONEXEMPT  
EMPLOYEES

Rest periods of up to 20 minutes must be counted as hours worked. Coffee breaks or time for snacks are rest periods, not meal periods. *29 CFR 785.18*

Bona fide meal periods of 30 minutes or more are not counted as hours worked if the employee is completely relieved from duty. The employee is not relieved from duty if the employee is required to perform any duties, whether active or inactive, while eating. For example, an office employee who is required to eat at his or her desk is working while eating. It is not necessary that an employee be permitted to leave the premises if the employee is otherwise completely freed from duties during the meal period. *29 CFR 785.19*

BREAKS FOR  
NURSING  
MOTHERS

The College District shall provide a nonexempt employee a reasonable break to express breast milk, each time the employee needs to express breast milk for her nursing child, for one year after the child's birth. The College District shall provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.

The College District is not required to compensate the employee receiving reasonable break time for any work time spent for such purpose.

A College District that employs fewer than 50 employees is not subject to these requirements if the requirements would impose an undue hardship by causing the College District significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the College District.

*29 U.S.C. 207(r)*

COMPENSATORY  
TIME

ACCRUAL

Nonexempt employees may receive, in lieu of overtime compensation, compensatory time off at a rate of not less than one and one-half hours for each hour of overtime work, pursuant to an agreement or understanding arrived at between the employer and employee before the performance of the work. Such agreement or understanding may be informal, such as when an employee works

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	<p>overtime knowing that the employer rewards overtime with compensatory time.</p> <p>An employee may accrue not more than 240 hours of compensatory time. If the employee's overtime work included a public safety activity, an emergency response activity, or a seasonal activity, the employee may accrue not more than 480 hours of compensatory time. After the employee has reached these limits, the employee shall be paid overtime compensation for additional overtime work.</p>
PAYMENT FOR ACCRUED TIME	<p>Compensation paid to an employee for accrued compensatory time shall be paid at the regular rate earned by the employee at the time of payment. An employee who has accrued compensatory time off shall be paid for any unused compensatory time upon separation from employment at the rates set forth at 29 U.S.C. 207(o)(4).</p>
USE	<p>An employee who has requested the use of compensatory time shall be permitted to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the College District.</p> <p>The Fair Labor Standards Act does not prohibit the College District from compelling the use of accrued compensatory time.</p> <p><i>29 U.S.C. 207(o); Christensen v. Harris County, 529 U.S. 576 (2000); Houston Police Officers' Union v. City of Houston, 330 F.3d 298 (5th Cir. 2003)</i></p>
EXEMPT EMPLOYEES	<p>The minimum wage and overtime provisions do not apply to any employee employed in a bona fide executive, administrative, or professional capacity. 29 U.S.C. 213(a)(1)</p>
ACADEMIC ADMINISTRATORS	<p>The term "employee employed in a bona fide administrative capacity" includes an employee:</p> <ol style="list-style-type: none"><li>1. Who is compensated for services on a salary or fee basis at a rate of not less than \$455 per week exclusive of board, lodging, or other facilities, or on a salary basis that is at least equal to the entrance salary for teachers in the College District by which employed; and</li><li>2. Whose primary duty is performing administrative functions directly related to academic instruction or training in a College District or department or subdivision thereof.</li></ol> <p>"Performing administrative functions directly related to academic instruction or training" means work related to the academic operations and functions in a College District rather than to administration along the lines of general business operations. Such academic administrative functions include operations directly in the field of</p>

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education. Jobs relating to areas outside the educational field are not within the definition of academic administration.

Employees engaged in academic administrative functions include:

1. Department heads in institutions of higher education responsible for the administration of the mathematics department, the English department, the foreign language department, and the like;
2. Academic counselors who perform work such as administering school testing programs, assisting students with academic problems and advising students concerning degree requirements; and
3. Other employees with similar responsibilities.

Jobs relating to building management and maintenance, jobs relating to the health of the students, and academic staff such as social workers, psychologists, lunch room managers, or dietitians do not perform academic administrative functions, although such employees may qualify for another exemption.

*29 CFR 541.204*

SALARY BASIS

To qualify as an exempt executive, administrative, or professional employee, the employee must be compensated on a salary basis, unless the employee is a teacher. Subject to the exceptions listed in the rule, an employee must receive the full salary for any week in which the employee performs any work, without regard to the number of days or hours worked. A College District that makes improper deductions from salary shall lose the exemption if the facts demonstrate that the College District did not intend to pay exempt employees on a salary basis. *29 CFR 541.600, 541.602(a), 541.603*

PARTIAL-DAY  
DEDUCTIONS

A College District employee who otherwise meets the salary basis requirements shall not be disqualified from exemption on the basis that the employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and that requires the employee's pay to be reduced or the employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one workday when accrued leave is not used by an employee because:

1. Permission for its use has not been sought or has been sought and denied;

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2. Accrued leave has been exhausted; or
3. The employee chooses to use leave without pay.

Deductions from the pay of a College District employee for absences due to a budget-required furlough shall not disqualify the employee from being paid on a salary basis except in the work-week in which the furlough occurs and for which the employee's pay is accordingly reduced.

*29 CFR 541.710*

SAFE HARBOR  
POLICY

If the College District has a clearly communicated policy that prohibits improper pay deductions and includes a complaint mechanism, reimburses employees for any improper deductions, and makes a good faith commitment to comply in the future, the College District will not lose the deduction unless the College District willfully violates the policy by continuing to make improper deductions after receiving employee complaints.

The best evidence of a clearly communicated policy is a written policy that was distributed to employees before the improper pay deductions by, for example, providing a copy of the policy to employees upon hire, publishing the policy in an employee handbook, or publishing the policy on the College District's intranet.

*29 CFR 541.603(d)*

FACULTY

The term "employee employed in a bona fide professional capacity" includes any employee with a primary duty of teaching, tutoring, instructing or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in an educational establishment by which the employee is employed. The term "educational establishment" means an institution of higher education or other educational institution. The salary basis requirements do not apply to teaching professionals.

Exempt teachers include: Regular academic teachers; teachers of kindergarten or nursery school pupils; teachers of gifted or disabled children; teachers of skilled and semi-skilled trades and occupations; teachers engaged in automobile driving instruction; aircraft flight instructors; home economics teachers; and vocal or instrumental music instructors. Those faculty members who are engaged as teachers but also spend a considerable amount of their time in extracurricular activities such as coaching athletic teams or acting as moderators or advisors in such areas as drama, speech, debate or journalism are engaged in teaching. Such activities are a recognized part of the schools' responsibility in contributing to the educational development of the student.

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The possession of an elementary or secondary teacher's certificate provides a clear means of identifying the individuals contemplated as being within the scope of the exemption for teaching professionals. Teachers who possess a teaching certificate qualify for the exemption regardless of the terminology (e.g., permanent, conditional, standard, provisional, temporary, emergency, or unlimited) used by the state to refer to different kinds of certificates. However, a teacher who is not certified may be considered for exemption, provided that such individual is employed as a teacher by the employing school or school system.

*29 CFR 541.303, .204(b)*

WAGE AND HOUR  
RECORDS

The College District shall maintain and preserve payroll or other records for nonexempt employees containing the information required by the regulations under the Fair Labor Standards Act. *29 CFR 516.2a*

NOTICE REGARDING  
EARNED INCOME TAX  
CREDIT

Not later than March 1 of each year, a College District shall provide employees with information regarding general eligibility requirements for the federal earned income tax credit by one of the following means:

1. In person;
2. Electronically at the employee's last known e-mail address;
3. Through a flyer included, in writing or electronically, as a payroll stuffer; or
4. By first class mail to the employee's last known address.

A College District may not satisfy this requirement solely by posting information in the workplace.

In addition, a College District may provide employees with IRS publications and forms, or information prepared by the comptroller, relating to the earned income tax credit.

*Labor Code 104.001-.003*