

**District 2 Public Health
Policy # 232
Fair Labor Standards Act Policy
Effective December 1, 2016**

PURPOSE

The purpose of this policy is to provide guidelines for classifying employees and/or positions, and for compensating non-exempt employees for overtime worked.

AUTHORITY

The District 2 Public Health Fair Labor Standards Act Policy is published under the authority of the District for each County Board of Health (CBOH) and in compliance with the following:

Fair Labor Standards Act (FLSA)

Department of Labor Rules (DOL)

Employees' Retirement System of Georgia (ERSGA)

State Personnel Board Rules (SPB)

SCOPE

This policy applies to all employees within District 2 Public Health.

POLICY

It is the policy of District 2 to properly classify all employees in accordance with FLSA and DOL rules regarding earnings threshold and the requirements and essential functions of the position(s), and to comply with FLSA and DOL rules regarding compensatory time and overtime.

ACCOUNTABILITY

The District 2 Human Resources Department (HR Dept.) is responsible for ensuring that the District is in compliance with this policy and all applicable rules.

CLASSIFICATIONS – POSITION TYPE

All employees shall be assigned to one of the following designations:

1. **Regular Full-time Employee:** An employee whose employment status is classified as full-time and whose regular work week is scheduled for thirty (30) hours or more per week for a minimum of nine months per year.

Note: Employees' Retirement System of Georgia is only available for employees whose employment status is classified as full-time and whose regular work week is scheduled for thirty-five (35) hours or more per week for a minimum of nine months per year. This applies to all eligible new hires effective January 1, 2009 according to the Georgia State Employee's Pension and Savings Plan (GSEPS).

2. **Regular Part-time Employee:** An employee whose employment status is classified as part-time and whose regular work week is scheduled for twenty-nine (29) hours or less per week for a minimum of nine months per year.

3. Employees may be classified under the following classification job terms:

Hourly: An employee paid on an hourly basis for each hour worked. An hourly employee's work week may not exceed 29 hours per week.

Salaried: An employee paid a flat amount semi-monthly regardless of how many hours they work during a work week.

Note that salaried employees working 40 hours per week may be referred to as full-time salaried employees, while salaried employees working 30-39 hours per week may be referred to as reduced-hour or part-time salaried employees without changing the intent of the classification.

4. **Temporary Employee:** An employee who is hired with the understanding that employment will not be regular (i.e. employment for unspecified hours per week for a limited period of time), is a temporary employee. Temporary employees may work any number of hours up to and including full-time. Temporary employees are not eligible for benefits.

Note: Temporary employees, with the exception of Georgia retirees, should not exceed 1,508 hours from October 1st through September 30th. Temporary employees exceeding 1,508 hours are eligible for medical benefits in accordance with Federal Law.

5. **Individual Contractor:** A worker who works under contract for an employer. An individual contractor is hired for a specific job at a specific rate of pay. Individual contractors are not considered regular staff employees and are not guaranteed regular employment or benefits during and/or at the end of their contract.
6. **Intern / Student:** A temporary position with an emphasis of on-the-job, educational training rather than merely employment, which can be paid or unpaid. Intern/student positions are supervised learning experiences, not regular work. Intern positions should not exceed nine (9) months.
7. **Volunteer:** an individual who donates their services, usually on a part-time basis, for public service, religious or humanitarian objectives, not as an employee, and without contemplation of pay. Volunteers are not considered employees and cannot be paid or receive benefits. Volunteers are not guaranteed regular employment during and/or at the end of their contract.

CLASSIFICATIONS – EXEMPT / NON-EXEMPT

All employees—whether full time, part time, or temporary—are classified as Exempt or Non-Exempt for FLSA purposes. Classification is based on a combination of earnings threshold, and job requirements and essential functions. Employees with identical job titles may or may not have the same exemption statuses.

The HR Dept. is responsible for accurately determining the exemption status of each employee according to federal guidelines, including revising the status as appropriate. The HR Dept. may consult with an employee's supervisor when evaluating the requirements and essential functions of the position. All employees will be notified of their exemption status, including any changes to their exemption status, in a timely manner.

1. **Exempt** – Employees who, because of their earnings level and job duties are not subject to the FLSA minimum wage, overtime or recordkeeping requirements of the law. Exemptions from the law are narrowly defined.
2. **Non-Exempt** – Employees who are covered by or subject to the minimum wage, overtime and recordkeeping provision of the FLSA. A non-exempt employee may be paid on an hourly, salaried, or commissioned basis, as long as they receive at least minimum wage for all hours worked and the appropriate overtime compensation.

TIME WORKED

Work Period - The standard FLSA work period is a fixed period of seven consecutive calendar days. All employees within District 2 (both exempt and non-exempt) are assigned a work period which begins on Friday at 5:00 PM, and ends the following Friday at 5:00 PM.

Time Worked - Time worked includes all time non-exempt employees are required to be on duty at prescribed work places, and all time during which non-exempt employees are "suffered or permitted" to work.

1. **Meal Periods** - Meal periods are not counted as time worked as long as non-exempt employees perform no duties during their scheduled lunch, which must be an uninterrupted period of no less than 30 minutes.
2. **Break Periods** - Up to two 15-minute break periods per day may be authorized at the discretion of supervisors, and if work assignments permit. These short break periods are counted as time worked. Since break periods are work time, non-exempt employees are not authorized to lengthen a meal period, report late to work, or leave early by "working through" a break period.
3. **Meeting, Training** - Time spent attending meetings, trainings and similar activities must be counted as time worked, unless accounted for through leave or when ALL of the following criteria are met:
 - The attendance is outside of the non-exempt employee's regular working hours;
 - The attendance is voluntary;
 - The meeting, training or similar activity is not directly related to the non-exempt employee's position; and
 - The non-exempt employee performs no productive work related to the non-exempt employee's position while in attendance.
4. **Travel** – Travel time as work time largely follows the same rules as does travel mileage for reimbursement.

Travel from home to the employee's primary work site (i.e. their work "homebase") and return is not work time. This is defined as the employee's primary commute.

Travel to work assignments at sites within the employee's primary commuting distance is considered in the "home to work" category and is not work time.

Travel associated with an assignment at a different location must be considered time worked to the extent that the travel exceeds the employee's primary commute.

Travel between a non-exempt employee's normal work site and another place of assignment, or travel between one assignment and another during the work day, is considered time worked.

Travel time which is assigned as a routine component of an employee's schedule is considered time worked.

The FLSA does not require that travel time out-of-town for overnight stay as a passenger outside of normal work hours be counted as time worked. As a matter of policy, however, the District will count bona fide travel time of non-exempt employees, which include the driver and all passengers outside normal work hours as work time.

FLSA exempt employees are not entitled to any compensation for travel time either outside of, or in addition to, their normal hours of work.

5. **On-call Time** – On-call time is not work time unless the employee is required to remain on the work site premises or is restricted such that he or she cannot use the time effectively for his or her own purposes. Carrying a cell phone or leaving word where one can be reached is not working while on call.
6. **Deployment During an Emergency Response** – time worked while deployed away from home during an emergency response will be determined with assistance from Human Resources. In general, only time when the employee is required to be on duty is considered work time. Periods during which the employee is free to go where they please and use their time for their own purposes, are not hours worked.
7. **Paid Time Off** – Time worked does not include paid time off, such as leave, holidays, or suspension.

MANAGEMENT OF WORK HOURS

Supervisors are responsible for managing and monitoring work hours of non-exempt employees to ensure accurate records are maintained and to minimize overtime worked.

Non-exempt employees must be compensated for all time which supervisors know or have reason to know is being worked, not simply the time which non-exempt employees have been required or asked to work.

Supervisors are not to ignore work which non-exempt employees do "on their own time." Non-exempt employees are required to report all time worked.

Non-exempt employees are not allowed to conduct work before their scheduled workday begins, during meal periods, and after their workday ends. Non-exempt employees who violate this restriction may be prohibited from occupying their workstations or otherwise utilizing work equipment or materials before their scheduled workday begins, during meal periods, and/or after their workday ends. Exceptions:

- If a non-exempt employee arrives after the scheduled reporting time, the supervisor may allow the employee to adjust the work schedule within the work period to make up the time if tardiness seldom occurs and the adjustment is otherwise determined appropriate. If frequent tardiness occurs, the employee should not be allowed to make up the time. The employee may be placed on unauthorized leave without pay, placed on an attendance plan, and disciplinary action may be taken.
- If a non-exempt employee arrives before the scheduled reporting time, the supervisor may allow the employee to begin work early and adjust the work schedule within the work period to offset the time. This should only be allowed for short or occasional deviations from the scheduled start time. It should not be allowed when doing so would interrupt the workflow or coverage of the work unit.

Non-exempt employees should not be allowed to work beyond their normal work hours to finish work that should be completed during the workday. Supervisors are responsible for closely monitoring all overtime worked in these instances.

Non-exempt employees are required to accurately record their actual work time. Non-exempt employees who fail to correctly record actual work time are subject to disciplinary action up to and including termination.

Time worked should be reviewed by both the non-exempt employee and their supervisor prior to the end of the work period to determine if overtime may occur. With the exception of emergency or unforeseen situations, an employee's work schedule should be adjusted to prevent overtime work.

Note that exempt employees are not required to maintain time sheets for FLSA purposes. However, exempt employees may be required to maintain records of time worked if necessary to comply with programmatic, cost assignment, or other requirements, or for other purposes at the discretion of the District.

OVERTIME

Overtime occurs when an employee actually works more than 40 hours in a work week period.

- Overtime is not accrued for non-exempt employees who may have been in pay status for more than 40 hours during a work period due to a holiday or use of accrued leave, but who did not actually work more than 40 hours.

Non-exempt employees must generally receive **prior** approval to work overtime. In unique or emergency situations, prior approval may not always be possible. Overtime worked in these instances must be reported to the supervisor as soon as possible. Employees may be required to explain why overtime was necessary and why pre-approval was not possible. Whether authorized or not, all overtime work must be accurately and promptly recorded.

Overtime may be granted for emergencies, unanticipated assignments or for special projects that cannot be completed during normal work hours.

Non-exempt employees who work without authorization are subject to disciplinary action, up to and including termination from employment.

Non-exempt employees receive **time and a half FLSA compensatory time** for the amount of overtime worked.

The actual amount of FLSA compensatory time earned (i.e., not rounded off) should be reported. The accrual and usage of FLSA compensatory time must be reported in the same manner that sick and annual leave are reported.

Non-exempt employees may accrue up to a maximum of 240 hours of FLSA compensatory time (160 overtime hours worked x 1½ = 240 hours of compensatory time).

Non-exempt employees must receive overtime payment for FLSA compensatory time accrued in excess of the maximum (240 hours).

FLSA exempt employees **are not entitled to compensatory time** for time worked beyond 40 hours during a work period. In circumstances when an exempt employee is required to work an unusual number of hours, the manager may grant some time off within a reasonable period of time, not to exceed one month. Time off for exempt employees, however, should not necessarily be on an hour for hour basis.

If an employee moves from non-exempt status to exempt status, any accrued compensatory time remains that employee's to use under the same conditions and rules as when they were non-exempt. No new compensatory time accrues in the exempt position, however.

COMPENSATORY TIME USE AND PAYMENT

Non-exempt employees must be permitted to use FLSA compensatory time within a reasonable period after making the request if the granting of such time does not unduly disrupt the operations of the District.

Non-exempt employees must take FLSA compensatory time in lieu of annual leave. Non-exempt employees may request FLSA compensatory time in lieu of sick leave or personal leave.

Monetary payment of overtime to non-exempt employees will be made only in the following situations:

- In unique or critical circumstances. Monetary payment in these circumstances must have prior approval from the District Health Director.
- Upon exceeding the accumulation limits (240 hours) for compensatory time.
- Upon separation from employment, including transfer to another state agency.

Overtime payments for approved circumstances or hours in excess of the accumulation limits for compensatory time are calculated on an hourly rate by adding the nonexempt employee's annual salary and supplemental pay, and dividing the sum by 2,080 hours. Overtime payment is calculated on the rate in effect when the overtime was earned.

Payment for accrued and unused FLSA compensatory time made at the time a non-exempt employee resigns or transfers to another state agency must be paid at the higher of the average regular rate received by the non-exempt employee during the last three (3) years of employment; or the final regular rate received by the non-exempt employee.

Approval:		
	District Health Director/Appointing Authority	Date

DISTRICT 2 PUBLIC HEALTH

FAIR LABOR STANDARDS ACT

EMPLOYEE NOTIFICATION:

NAME _____

This is to advise you of your classification under the Fair Labor Standards Act, as amended.

Employees fall into two categories under the Fair Labor Standards Act. Your category is checked below:

Non-exempt ☐

Exempt ☐

☐ Executive ☐ Administrative ☐ Professional

Your work week has been established as 5:00 p.m. Friday through 5:00 p.m. the following Friday. You are not to work in excess of 40 hours during any given work week unless specifically authorized to do so, in advance, by your supervisor. Your work hours are outlined in your appointment letter.

Lunch is one hour and is not counted as work time. You cannot work through lunch to leave early or come in late.

It is your responsibility to keep your time accurately. Failure to keep your time accurately, unauthorized overtime – compensatory time, making false statements of time worked, signing in or out for another employee will result in disciplinary action which may include suspension and/or dismissal.

Employee Signature

Date Signed

FLSA.EMP.NOT.
02/05

DISTRICT 2 PUBLIC HEALTH

UNDERSTANDING CONCERNING THE USE OF FLSA COMPENSATORY TIME

I, _____,
do hereby acknowledge and agree that as part of the terms and conditions of my employment with District 2 Public Health and any County Board of Health within the District (hereinafter referred to as my employer), I understand that I may be required to work more than forty hours in a work week. I further understand that, in lieu of overtime compensation in cash, I may receive compensatory time off at the rate of one and one-half hours for each hour of employment for which overtime compensation is required by the Fair Labor Standards Act of 1938 (FLSA).

I understand that the compensatory time may be preserved, used, or cashed out consistent with the provisions of the FLSA.

Employee Signature

Date Signed

FMLA EMPLOYEE NOTICE
11/16