

# BORGER ISD

## FAIR LABOR STANDARDS ACT BULLETIN

FLSA

**Personnel Services**



**Excellence Begins Now  
Borger ISD  
[www.borgerisd.net](http://www.borgerisd.net)**

# **WAGE and HOUR GUIDLINES**

## **DEFINITIONS**

### **BREAKS**

Breaks **are not** required by Federal, state or local law. Supervisors may grant employees a 15-minute paid rest break for every 4 hours of scheduled work time. Supervisors may require that employees work through their break to meet an urgent need.

#### **RESTRICTIONS:**

- Breaks must not be taken first thing in morning (arrive 15 minutes late and call that a break)
- 2) Breaks must not be taken last thing in the afternoon / evening (leave 15 minutes early and call that a break)
- 3) Breaks cannot be combined with lunchtime to make it a long lunch.
- 4) If for any reason an employee does not take a break the employee is **not** entitled to (i) a longer break the next time they take a break or (ii) to an extra break in the future or (iii) to extra compensation for missing a break.

### **COMPENSATORY TIME OFF (COMP TIME)**

Under the Fair Labor Standards Act (FLSA), nonexempt employees must be compensated for all time worked. The District provides monetary compensation for hours worked during an employee's normal workday. In cases where an employee is instructed by his/her supervisor to work overtime, the District may choose to provide comp time rather than monetary compensation. Comp time refers to paid time off granted to a nonexempt employee for working overtime hours. Comp time is calculated at time and a half for hours worked over forty.

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### **EXEMPT EMPLOYEES**

Defined by the FLSA as employees who are exempt from the Act's provisions. Includes employees defined as professional, executive, or administrative employees; as well as other exemptions provided in the FLSA. Employees considered exempt may include, but are not limited to, the following: associate superintendents, executive directors, directors, principals, assistant principals, counselors, at-risk coordinators, nurses, facilitators, program assistants, full-time teachers, accountants, project engineers, and programmers.

### **FLEX TIME**

Nonexempt employees have a normal workweek and workday. Supervisors of nonexempt employees shall ensure that employees perform work during the schedule of hours on duty that each particular employee is assigned. However, in the course of normal operations, an employee may be required to work an alternative flex schedule. In some cases, the employee may not be able to work the regularly scheduled workday. In these cases, with prior approval from the site administrator, an employee may adjust the workday. For instance the employee might work 6 hours during one day and 10 hours on another day **in the same week**. The actual hours worked are recorded, by day, on the Weekly Time Sheet. The total number of hours worked by the employee (including flex time) during the week should equal the total number of hours the employee is required to work during the week, except as otherwise authorized pursuant to this Bulletin and applicable Board policies and administrative regulations.

### **LUNCH**

\*Fulltime nonexempt employees are entitled to and should take a 30-minute uninterrupted lunch break. If an employee's lunch break is interrupted, is less than 30 minutes, or the employee works through lunch, then the employee must be compensated for the entire 30 minutes. Employees need prior approval, from the site administrator, to take less than the 30 minutes for lunch or to work through their lunch period. Employees are prohibited from eating at their desk.

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\*fulltime – more than 30 hours per week

\*\*workweek – Sunday thru Saturday

### **NONEXEMPT EMPLOYEES**

Defined by the FLSA as employees who are covered under the Act's provisions. Nonexempt employees may be referred to as hourly employees. Employees considered nonexempt do not qualify as executive, administrative or administrative employees and may include, but are not limited to: paraprofessionals, secretaries, clerks, custodians, campus patrol, police officers, food service workers, maintenance workers and playground monitors. Substitute teachers are considered nonexempt unless either (1) the Texas State Board for Educator Certification has issued a Teacher Certificate or Permit to the employee, or (2) the employee has a bachelor's degree and has been issued a school district teaching permit pursuant to BISD Board Policy DBA (legal).

### **TIME WORKED**

Defined as the time an employee is on duty, at the employer's premises or at any other site, including the employee's home, where the employee is providing a service(s) for the District.

It does not include travel time to and from the employee's home. However, time spent by an employee in traveling from job site to job site during the workday, must be counted as hours worked. Where an employee is required to report at a meeting place to receive instruction or to perform other work there, or to pick up and to carry tools, the travel from the designated place to the work place is part of the day's work, and must be counted as hours worked.

### **WEEKLY TIME SHEET (WTS)**

The WTS is the District's official document, which (i) captures the actual time worked (time in, time out and in for lunch, and time out) by a nonexempt employee, (ii) calculates comp time earned, and (iii) tracks (increments and use of) the employee's comp time balance.

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### **WORKWEEK**

Workweek is defined as 7 consecutive 24-hour periods. The workweek starts on Sunday and ends on Saturday. Every workweek stands alone in computing an employee's compensation. Different workweeks cannot be consolidated or averaged in determining compensatory time during a pay period.

### **GENERAL**

The District is committed to properly compensating its employee in accordance with the Fair Labor Standards Act. As such, all hours worked by nonexempt employees for the benefit of the District must be recorded by the employee on the Weekly Time Sheet and will be compensated.

### **ADMINISTRATIVE RESPONSIBILITY**

The District will strictly enforce the wage and hour laws contained in the FLSA. Administrators must comply with the guidelines outlined in this bulletin and all other relevant policies and administrative regulations. Failure to do so will result in administrative action that could include termination.

**NOTE:** The site administrator (principal, director) is responsible for the hourly employees assigned to their campus/department. Environmental Service Director is responsible for nonexempt custodial/maintenance staff. Food Service employees fall under the jurisdiction of the Food Service Director. Transportation Director is responsible for transportation staff. All directors are responsible for the proper review and maintenance of employee WTS.

### **EMPLOYEE RESPONSIBILITY**

Nonexempt employees are responsible for complying with the guidelines outlined in this bulletin and all other relevant policies. This includes accurately recording **all** hours worked. Failure to do so will result in administrative action up to and including termination.

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### **AUTHORIZATION OF OVERTIME**

Site administrators (principals, department directors) may authorize overtime to meet their goals and objectives.

Prior **written** approval from the supervisor must be obtained before the employee may work overtime. Employees who work unauthorized overtime will be compensated. However, the employee will be subject to administrative action that may include termination.

Exemption: In cases of emergency where a supervisor is unable to authorize overtime in writing, the employee should handle the emergency and then notify the supervisor immediately afterward. Abuse of this emergency clause could result in administrative action.

### **ACCUMULATION OF COMP TIME (LIMITS)**

Nonexempt employees cannot accrue more than 60 compensatory hours at anytime during the year. At the end of the year, these hours must be zeroed out.

Once these limits are met, the employee must be compensated monetarily for those overtime hours that exceed the limit of 60 hours.

### **EMERGENCY, TEMPORARY ILLNESS, OR INTERVIEW (WITHIN BISD)**

The site administrator may excuse an employee from duty for up to one hour for an emergency, temporary illness or an interview for a position within BISD. The one-hour must be recorded on the Weekly Time Sheet. Employees are required to record absence for emergencies, illnesses or interviews greater than one hour.

### **UTILIZATION OF COMPENSATORY TIME**

Nonexempt employees who have accumulated compensatory time will be required to use such compensatory time prior to utilizing state leave or local sick leave when they are absent from work (Board Policy DEA Local). The

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immediate supervisor may require or direct a nonexempt employee to use or take compensatory time in order to reduce the balance of hours of compensatory time that the employee has accumulated.

Nonexempt employees will be required to use all accumulated compensatory time by June 30 of each year; any additional unused comp time shall be liquidated monetarily. Under extenuating circumstances, nonexempt employees may be allowed by the site administrator (principal, director or above) to carry forward no more than 20 hours of compensatory time into the ensuing school year.

Any hours carried forward must be used by December 31 of the ensuing school year.

### **EMPLOYEE TRANSFERS**

The site administrator must, in cases where an employee transfers or is assigned to another work location, ensure that the employee's comp time is "zeroed" before the employee leaves for his/her new assignment. The Assistant Superintendent for Administrative Services must be notified and approve of any situation where an employee's comp time balance cannot be cleared before starting their new assignment. A copy of the employee's last Weekly Time Sheet must be forwarded to the next worksite's site administrator and timekeeper.

### **WAIVERS, DONATIONS OF, OR REDUCED RATES FOR COMP TIME**

Comp time must be accumulated and accounted for in compliance with the FLSA. Compensatory time cannot be waived by voluntary agreement between employer and employee. An employee cannot "donate" overtime or agree to reduced rates of cash or compensatory time.

### **MONETARY COMPENSATION FOR COMP TIME DUE TO RETIREMENT, RESIGNATION, LEAVE OF ABSENCE, OR TERMINATION**

The site administrator is responsible for submitting the last Weekly Time

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Sheet, to The Assistant Superintendent for Administrative Services, for employees who are retiring, resigning, are on leave of absence (FLMA, workers' comp, etc.), have been terminated or are deceased. The last WTS must be accompanied by a request (memo) to pay the employee for outstanding comp time earned. It is the site administrator's responsibility to ensure that the outstanding comp time balance is true and accurate. The Assistant Superintendent for Administrative Services will authorize the payroll department to pay the outstanding comp time balance. All accumulated compensatory time will be paid at the employee's current rate of pay or the average regular rate received by the employee for the last three years of employment, whichever is higher.

### **OUT OF TOWN TRAVEL, FIELD TRIPS, ETC.**

In most cases, nonexempt employees are prohibited from traveling out of town on overnight trips because of complications dealing with accounting for actual hours worked. All out of town travel must be approved in writing by the site administrator.

Travel that keeps an employee away from home overnight is travel away from home. Travel away from home is work time when it cuts across the employee's workday. The employee is simply substituting travel for other duties. The time is not only hours worked on regular working days during normal working hours, but also during the corresponding hours on nonworking days.

Thus, if an employee regularly works from 9 a.m. to 5 p.m. from Monday through Friday the travel time during these hours is work time on Saturday and Sunday as well as on the other days. Regular meal period time is not counted. Work time does not include time spent in travel away from home outside of regular working hours as a passenger on an airplane, train, boat, bus or automobile.

Any work, which an employee is required to perform while traveling must be counted as hours worked. An employee who drives a truck, bus, or automobile, or an employee, who is required to ride therein as an assistant or helper, is working while riding, except during bona fide meal periods.



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Nonexempt **supervisors** may be approved to travel on a case-by-case basis. In these situations, the nonexempt employee must record actual hours worked. Examples of compensable time includes but is not limited to time spent on the District's behalf: studying, preparing for the next day's assignments, interpreting for a student regardless of the time and/or location services were provided, etc. In all cases, the employee must include a written explanation addressing the reason for the additional hours worked.

Non-exempt employees must be compensated for work performed during field trips. The nonexempt employee must be compensated for starting early, working during lunch and/or staying late. As such, please direct your questions to Tony McCarthy at 273-1006.

### **MEETINGS AND/OR TRAINING**

Attendance at lectures, meetings, training programs and similar activities need not be counted as working time if the following four criteria are met:

- a) Attendance is outside of the employee's regular working hours;
- b) Attendance is in fact voluntary;
- c) The course, lecture, or meeting is not directly related to the employee's job; and
- d) The employee does not perform any productive work during such attendance.

Normally, if all four criteria are not met, the time spent will be considered time worked and should be reflected on the Weekly Time Sheet. There may be exceptions supported by Department of Labor Regulations or court cases. For example, there are special situations where the time spent in attending lectures, training sessions and courses of instruction is not regarded as hours worked. Specifically, the district may establish for the benefit of its employees a program of instruction that corresponds to courses offered by independent bona fide institutions of learning. Voluntary attendance by an employee at such courses outside of working hours will not be hours worked even if they are directly related to his job, or paid for by the employer.

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Meeting or training coordinators who believe their program involving nonexempt employees should not be considered compensable time should clear the program, through The Assistant Superintendent for Administrative Services office at 273-1006 (before announcements, flyers, memos are distributed).

### VOLUNTEERS

BISD nonexempt employees (hourly employees) are prohibited from volunteering any services to BISD. Nor should a nonexempt employee volunteer for a Booster Club unless:

- 1) The employee has a child or grandchild attending the school at which the employee will be volunteering for the Booster Club;
- 2) The employee does not provide the same type of services as provided during the normal workday; and
- 3) The employee is volunteering services to the Booster Club in the sole capacity of parent or grandparent and not as an employee of BISD.

Failure, by a non exempt employee, to comply with this guideline will result in administrative action up to and including termination.

Site administrators should ensure that nonexempt employees do **not** volunteer services to BISD. Prohibited services include but are not limited to serving as club sponsor, coach or assistant coach.

Site administrators who allow nonexempt employees to volunteer services to BISD in violation of District policy will be subject to administrative action that could include termination.

Volunteer work that is related to a nonexempt employee's regular job is not considered voluntary and must be compensated appropriately.

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### **FILING A CLAIM**

Nonexempt employees are instructed to notify their site administrator and The Assistant Superintendent for Administrative Services ([tony.mccarthy@borgerisd.net](mailto:tony.mccarthy@borgerisd.net)) in writing of all cases where they believe they have not been compensated in compliance with the FLSA.

Site administrators are instructed to take immediate action to determine whether there is a basis for said claim. The site administrator is required to provide The Assistant Superintendent for Administrative Services a written statement addressing their findings. The Assistant Superintendent for Administrative Services will work with the Business Office to resolve all wage and hour issues.

Claims that result in a monetary payment will be charged to the respective campus/department budget.

### **EMPLOYEE'S RESPONSIBILITIES**

Nonexempt employees are required to accurately reflect all hours worked for the District on the Weekly Time Sheet. All overtime hours worked by the employee requires prior written approval by the employee's site administrator (principal, director). However, even if unauthorized, an employee must record **all** time worked. If the nonexempt employee does not comply with these requirements, administrative action will be taken which could include termination. Site administration and/or Supervisors who direct or knowingly allow employees to violate the guidelines outlines in this bulletin will be recommended for termination of employment.

Actual time/date worked must be recorded on the WTS and Sign In Sheet. Falsification of records regarding time worked, including overtime, will be considered good cause for termination.

### **TRANSPORTATION DEPARTMENT EMPLOYEES**

Transportation employees will adhere to the time-keeping method as outlined by the Personnel Director, Payroll, and Transportation Departments.

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### RECORDS RETENTION

Weekly Time Sheets must be held in custody for 4 years. These records must not be destroyed without prior written approval from the District's Personnel Office. Please address your questions regarding records retention, archival, or destruction to the Personnel Office at 273-1006.

### COMPLETION OF WEEKLY TIME SHEET (WTS)

All hourly employees are required to (1) attend Weekly Time Sheet training and (2) complete the Weekly Time Sheet in accordance with the guidelines illustrated in this bulletin.

The following defines each section of the Weekly Time Sheet:  
**WTS** are on the Borger ISD web-site.

Click on staff, time card calculator.

The top section is where you record your actual time worked. Workday portions are separated into 3 sections. Section 1 is the time you start work (in) and leave (out). Section 2 is when your return to work (lunch, Dr., etc.). Section 3 if you had to leave another time during the day. All times are automatically calculated at the end of the row.

If you are not physically at work do not enter a time.

Once you have all times entered for the week a total will show in the **week total**. Use the 8 – minute rule in the bottom section to enter **total for week**.

The bottom section must be hand written. Please enter any leave description on the appropriate line.

The employee and supervisor must sign all time sheets.

**Time card will not save daily, you may only enter times at the end of the work week.**

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If the employee is not authorized and scheduled to work overtime then the employee must leave the job site immediately at the end of the workday to avoid accumulation of comp time.

The employee should not record rest breaks of less than 20 minutes on the Weekly Time sheet.

However, an employee must record, on the Weekly Time Sheet, breaks that he/she takes that are for more than 20 minutes (29 C.F.R. § 785.18). An employee will not get paid for this time.

**It is the employee's responsibility to ensure that the data is correct.**



## OVERTIME PERMISSION

\_\_\_\_\_ has my permission to work over the 40 hour weekly limit for the week of \_\_\_\_\_. The employee will document these hours on his/her weekly time sheet.

\_\_\_\_\_ Employee will be paid for these hours in accordance with FLSA regulations

\_\_\_\_\_ Comp time will be assigned for these hours in accordance with FLSA regulations

As the supervisor of this employee, I understand that comp time or paid time will be charged to my campus or department budget.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Supervisor Signature

\_\_\_\_\_  
Date





**FAIR LABOR STANDARDS ACT  
TRAINING FOR NON-EXEMPT EMPLOYEES**

I, \_\_\_\_\_ have received the  
information regarding FLSA regulations and agree to abide  
with the rules as stated in the bulletin.

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Signature

Date

