

**AP 7234 OVERTIME**

**References:**

Education Code Sections 88027, 88028, 88029, and 88030

***NOTE: This procedure is legally required, but may be part of the collective bargaining contract rather than in these procedures. Overtime pay is a mandatory subject of bargaining for employees represented by an exclusive representative. Districts have the option of negotiating for and establishing workweeks that differ from the traditional workweek. Procedures to implement such plans should be discussed with counsel.***

Overtime compensation will be provided at the rate equal to one and one-half (1 ½) times the regular rate of pay for confidential and supervisory unrepresented employees. An employee must be authorized in advance by management to perform such overtime. Overtime for regular, confidential, and supervisory unrepresented employees is defined to include any time required to be worked in excess of eight (8) hours in any one day and or any time in excess of forty (40) hours in any calendar week. If the Board establishes a workday of less than eight hours but seven hours or more and a workweek of less than 40 hours but 35 hours or more for all of its classified positions or for certain classes of classified positions, all time worked in excess of the established workday and workweek shall be deemed to be overtime.

Sunday overtime for regular (classified) confidential and supervisory employees not regularly scheduled on Sunday will be paid at a rate equal to double the regular rate of pay.

Confidential and supervisory Unrepresented employees who work an alternate work schedule, such as a 4/10 work schedule, will be paid overtime at the end of their scheduled work time. For example, overtime will begin after 10 hours of any work day when a 4/10 schedule is in effect.

The foregoing provisions do not apply to:

- classified positions for which a workday of fewer than seven hours and a workweek of fewer than 35 hours has been established,
- positions for which a workday of eight hours and a workweek of 40 hours has been established, but in which positions employees are temporarily assigned to work fewer than eight hours per day or 40 hours per week when such reduction

in hours is necessary to avoid layoffs for lack of work or lack of funds and the consent of the majority of affected employees to such reduction in hours has been first obtained.

For the purpose of computing the number of hours worked, time during which an employee is excused from work because of holidays, sick leave, vacation, compensatory time off, or other paid leave of absence shall be considered as time worked by the employee.

When compensatory time off is authorized in lieu of cash compensation, such compensatory time off shall be granted within 12 calendar months following the month in which the overtime was worked and without impairing the services rendered by the District.

An employee having an average workday of less than four hours during a workweek shall, for any work required to be performed on the seventh day following the commencement of his/her workweek, be compensated for at a rate equal to 1 1/2 times the regular rate of pay of the employee designated and authorized to perform the work.

**NOTE:** Consider inserting some or all of the language from current CLPCCD Policy 4240 to this new AP 7234 titled Overtime below.

#### Exclusions from 8-Hour Day

~~All confidential and supervisory are subject to fluctuations in daily working hours not susceptible to administrative control, under provisions of the Education Code, the Board therefore exempts these classes and the employees occupying the positions from compensation for overtime in excess of eight (8) hours in any one day, provided the hours worked in excess of forty (40) in a calendar week shall be compensated on an overtime basis.~~

Further information on overtime for represented employees can be found in the collective bargaining agreement.

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**NOTE:** The **red ink** signifies language that is **legally required** and recommended by the Policy and Procedure Service and its legal counsel. The language in **green ink** was added on July 31, 2013 during the review with David, Lydia, and Kit and on March 28, 2014 with Wyman, David, and Kit. Change in **blue ink** was made by David on May 19, 2015. Changes in **purple ink** were made by David on June 22, 2015.

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#### **Date Approved:**

*(This is a new procedure recommended by the Policy and Procedure Service)*

## Legal Citations for AP 7234

**Ed Code Section 88027.** The governing board of each community college district shall provide the extent to which, and establish the method by which ordered overtime is compensated. The board shall provide for such compensation or compensatory time off at a rate at least equal to time and one-half the regular rate of pay of the employee designated and authorized to perform the overtime.

Overtime is defined to include any time required to be worked in excess of eight hours in any one day and in excess of 40 hours in any calendar week. If a governing board establishes a workday of less than eight hours but seven hours or more and a workweek of less than 40 hours but 35 hours or more for all of its classified positions or for certain classes of classified positions, all time worked in excess of the established workday and workweek shall be deemed to be overtime. The foregoing provisions do not apply to classified positions for which a workday of fewer than seven hours and a workweek of fewer than 35 hours has been established, nor to positions for which a workday of eight hours and a workweek of 40 hours has been established, but in which positions employees are temporarily assigned to work fewer than eight hours per day or 40 hours per week when such reduction in hours is necessary to avoid layoffs for lack of work or lack of funds and the consent of the majority of affected employees to such reduction in hours has been first obtained.

For the purpose of computing the number of hours worked, time during which an employee is excused from work because of holidays, sick leave, vacation, compensating time off, or other paid leave of absence shall be considered as time worked by the employee.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88028. When compensatory time off is authorized in lieu of cash compensation, such compensatory time off shall be granted within 12 calendar months following the month in which the overtime was worked and without impairing the services rendered by the employing district.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

88029. Notwithstanding Sections 88026 and **88027**, a personnel commission, when applicable, or a governing board of a community college district, may specify certain positions or classes of positions as supervisory, administrative, or executive and exclude the employees serving in those positions and the positions from the overtime provisions.

To be excluded from the overtime provisions, the positions or classes of positions must clearly and reasonably be management positions. In approving positions or classes of positions for exclusion from the overtime provisions, the personnel commission, when applicable, or the governing board of a district, shall certify, in writing, that the duties, flexibility of hours, salary, benefit

structure, and authority of the positions or classes of positions are of such a nature that they should be set apart from those positions that are subject to the overtime provisions, and that employees serving in the excluded positions or classes of positions will not be unreasonably discriminated against as a result of the exclusion.

Notwithstanding the provisions of this section, if a person serving in an excluded position is required to work on a holiday, as provided for in this **code**, or by action of a governing board, he or she shall be paid, in addition to his or her regular pay for the holiday, compensation, or given compensating time off, at a rate not less than his or her normal rate of pay.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060).

88030. Notwithstanding Section 88026, the workweek shall consist of not more than five consecutive working days for any employee having an average workday of four hours or more during the workweek. Such an employee shall be compensated for any work required to be performed on the sixth or seventh day following the commencement of the workweek at a rate equal to 1 1/2 times the regular rate of pay of the employee designated and authorized to perform the work.

An employee having an average workday of less than four hours during a workweek shall, for any work required to be performed on the seventh day following the commencement of his or her workweek, be compensated for at a rate equal to 1 1/2 times the regular rate of pay of the employee designated and authorized to perform the work.

Positions and employees excluded from overtime compensation pursuant to Section 88029 shall likewise be excluded from this section.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060).