



Overtime Scenarios Impacting WV School Districts

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HB 5056

- Substitute service personnel
- Effective Date – June 4, 2024
- Allows for full-time service personnel to substitute on a day-to-day basis if the following circumstances exist:
 1. There is no other qualified substitute available
 2. The shift is outside of the employee's regular, full-time schedule
 3. The employee is properly certified for the position



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HB 5056

In this situation, yes, retirement contributions should be withheld from the additional substitute employment because they have a contract that they also have retirement withholding on. If, however, they were only in the substitute position, then there would not be retirement withholding from the substitute pay.

If you have any other questions, please just let me know.

On Sun, Dec 15, 2024 at 10:30 PM Uriah Cummings <uriah.cummings@k12.wv.us> wrote:

Hi Terasa,

You may or may not be aware of HB 5056 passed during the 2024 session. The bill allows for full-time service personnel to substitute in a half-time substitute position if the work does not interfere with their regular contract. The question is, should this compensation be subject to retirement. Could you or someone else with CPRB advise on this issue?



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Disclaimer: For all scenarios outlined in this presentation, the blended rate methodology has been utilized to compute overtime compensation. It should be noted that school districts have the authority to utilize the separate rates method if set forth in local policy. School districts should have local policy detailing overtime procedures. A sample overtime policy is included in the FLSA Compliance Guide published by WVDE.



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Scenario #1 - Overtime Pay at Same Job:

A maintenance worker who has a 261-day employment contract normally works from 7:00 am - 3:00 pm each day for a 40-hour workweek (7.5 hours per day of work time plus a 30-minute duty-free lunch period). Occasionally, at his own discretion, he works beyond his scheduled quitting time during the school year to complete a repair. He maintains a personal record of these hours and takes the time off during the summer, when he is not as busy. His normal rate of pay is \$20 per hour. During this particular week, he worked an additional 4 hours of overtime. He does not report this on his time sheet, since he plans on taking the time off in the summer. Is he entitled to overtime and how is it calculated?

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Yes

Calculation:					
	Hours		Hourly		
	Worked		Rate		Total
Total hours worked for the week (Including lunch period)	44		\$ 20.00		\$ 880.00
Regular weekly compensation	44				\$ 880.00
Regular pay for actual hours worked					\$ 880.00
Divided by total hours worked					44.00
Regular rate of pay					\$ 20.00
Overtime premium rate (1/2 of regular rate)					\$ 10.00
Overtime hours worked					4.00
Overtime pay					40.00
Total pay for the week					\$ 920.00

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Does the employee have the discretion to take paid compensatory leave in lieu of being paid overtime wages?



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It depends on whether or not the board has taken action to allow this practice and has established policy governing compensatory leave. The policy should stipulate the time period in which the employee may choose to accrue compensatory leave in lieu of overtime wages.



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Scenario #2 - Pay for Working Through Lunch Hour:

A school secretary works from 7:00 am - 3:00 pm each day for a 40-hour workweek (7.5 hours per day of work time plus a 30-minute duty-free lunch period). She is employed for 200-days, and her regular annual salary is \$32,000, consequently her hourly rate is \$20.00 (Daily rate of \$160.00 divided by 8 hours). She eats her lunch at her desk and is frequently interrupted during the period by students, parents and teachers. Is she entitled to overtime and how is it calculated?

No, but additional compensation is required.

Calculation:				
	Hours		Hourly	
	Worked		Rate	Total
Regular hours worked for the week (Including lunch period)	40.0		\$ 20.00	\$ 800.00
Regular weekly compensation	40.0			\$ 800.00
Regular pay for actual hours worked				\$ 800.00
Divided by total hours worked				40.00
Regular rate of pay				\$ 20.00
Overtime premium rate (1/2 of regular rate)				\$ 10.00
Overtime hours worked				-
Overtime pay				-
Compensation for working during lunch period	2.5		\$ 20.00	\$ 50.00
Total pay for the week				\$ 850.00

Scenario #3 - Overtime Pay When Personal Leave Day Taken:

A custodian normally works 40 hours per week (7.5 hours per day of work time plus a 30-minute duty-free lunch period) but he only worked 32 hours during the week because he took a personal day of leave. He also has an extra-curricular contract to cut the grass, which was posted at a scale lower than his regular pay. His regular pay is \$20 per hour, and his extra-curricular pay is \$15 per hour. During the week of the absence, he works 10 hours on his extra-curricular job. How many hours of overtime was earned?

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2 hours

Calculation:		Hourly	
	Hours	Rate	Total
Regular hours worked for the week (Including lunch period)	32	\$ 20.00	\$ 640.00
Extra-curricular duty (Stated in job posting)	10	\$ 15.00	150.00
Regular weekly compensation	42		\$ 790.00
Personal Leave	8	\$ 20.00	\$ 160.00
Regular pay for actual hours worked			\$ 790.00
Divided by total hours worked			42.00
Weighted average (Blended) rate for overtime hours			\$ 18.81
Overtime premium rate (1/2 of weighted average rate)			\$ 9.41
Overtime hours worked			2.00
Overtime pay			\$ 18.82
Total pay for the week			\$ 968.82

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Scenario #4 - Overtime Pay at a Flat Rate:

A custodian is paid a flat rate of \$300 each week for cleaning the fieldhouse. The custodian works from 7:00 am - 3:00 pm each day for a 40-hour workweek (7.5 hours per day of work time plus a 30-minute duty-free lunch period). She works at the high school and also has an extra-curricular contract to clean the fieldhouse at the school in the evenings. It normally takes her 2 hours to clean the fieldhouse each evening. Her regular hourly rate is \$20, and her extra-curricular rate is \$300 per week, as stated in the job posting. She worked 10 hours during the workweek cleaning the fieldhouse. What is her overtime rate and how is it calculated?

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Calculation:			Hourly		
	Hours		Rate		Total
Regular hours worked for the week (Including lunch period)	40		\$ 20.00		\$ 800.00
Extra-curricular duty	10		\$ 30.00		300.00
Regular weekly compensation	50				\$ 1,100.00
Regular pay for actual hours worked					\$ 1,100.00
Divided by total hours worked					50.00
Weighted average (Blended) rate for overtime hours					\$ 22.00
Overtime premium rate (1/2 of weighted average rate)					\$ 11.00
Overtime hours worked					10
Overtime pay					\$ 110.00
Total pay for the week					\$ 1,210.00

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Scenario #5 - Overtime Pay at Different Pay Rates and Different Locations:

A school secretary is required to attend a 4-hour staff development meeting at the high school Monday evening, and it takes her one hour to get there from her school. She worked 40 hours at her school that week (7.5 hours per day of work time plus a 30-minute duty-free lunch period) and also worked the extra-curricular assignment 2 hours a night at the board office on Tuesday through Friday evenings. It normally takes her a half hour to drive from the school to the board office. Her regular hourly rate is \$15 per hour and the rate for the extra-curricular contract is \$10 per hour. How much overtime is she entitled to receive, and how is it calculated?



Calculation:	Hours	Hourly Rate	Total
Regular hours worked for the week (Including lunch period)	40	\$ 15.00	\$ 600.00
Extra-curricular duty (\$10/hr stated in the job posting)	8	\$ 10.00	80.00
Travel time between two assignments (See note)	2	\$ 10.00	20.00
Staff development meeting (See note)	4	\$ 15.00	60.00
Travel time to the high school for the meeting	1	\$ 15.00	15.00
Regular weekly compensation	55		\$ 775.00
Regular pay for actual hours worked			\$ 775.00
Divided by total hours worked			55.00
Weighted average (Blended) rate for overtime hours			\$ 14.09
Overtime premium rate (1/2 of weighted average rate)			\$ 7.05
Overtime hours worked			15.00
Overtime pay			\$ 105.75
Total pay for the week			\$ 880.75



Scenario #6 - Overtime Pay With Extra-Curricular and Extra-Duty Assignments:

A bus operator works 30 hours each workweek performing his regular morning and evening bus duties. His normal workday consists of a 15-minute pre-trip inspection, a 30-minute lunch period, 5 hours to drive his morning and afternoon routes, and a 15-minute post-trip inspection. He also has an extra-duty run on Wednesday that takes 4 hours to complete. He is employed for 200 days, and his regular annual salary is \$24,900, consequently his hourly rate is \$20.75 (Daily rate of \$124.50 divided by 6 hours). He also has an extra-curricular bus run each day that takes 2 hours a day to perform, for a total of 10 hours. The rate for the extra-curricular bus run is \$20.00 per hour, as stated in the job posting.

Calculation of 1/7 of daily rate:					
Annual Pay Table					\$24,900.00
Days employed					200.00
Daily rate - regular duty					\$ 124.50
Extra-curricular duty (2 hours/day x \$20/hr)					\$ 40.00
Total daily salary					\$ 164.50
One-seventh (1/7) of total daily salary					\$ 23.50

Calculation:			Hourly		
	Hours		Rate		Total
Regular hours worked for the week (Including lunch period)	30		\$ 20.75		\$ 622.50
Extra-curricular duty (\$20/hr stated in the job posting)	10		\$ 20.00		200.00
Extra-duty bus run (1/7 daily rate) (See below)	4		\$ 23.50		94.00
Regular weekly compensation	44				\$ 916.50
Regular pay for actual hours worked					\$ 916.50
Divided by total hours worked					44.00
Weighted average (Blended) rate for overtime hours					\$ 20.83
Overtime premium rate (1/2 of weighted average rate)					\$ 10.42
Overtime hours worked					4.00
Overtime pay					\$ 41.68
Total pay for the week					\$ 958.18


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Scenario #7 - Overtime Pay With Extra-Curricular and Extra-Duty Assignments (Extra-Curricular on Alternating Days):

Same scenario as the preceding example, except that the extra-curricular bus run is only three days a week, Monday, Wednesday, and Friday, and the bus operator has two extra-duty bus runs during the week, one for 2 1/2 hours on Thursday and the other one, also for 3 1/2 hours, on Friday. The bus operator works 30 hours each workweek performing his regular morning and evening bus duties. His normal workday consists of a 15-minute pre-trip inspection, a 30-minute lunch period, 5 hours to drive his morning and afternoon routes, and a 15-minute post-trip inspection. He is employed for 200 days, and his regular annual salary is \$24,900, consequently his hourly rate is \$20.75 (Daily rate of \$124.50 divided by 6 hours). The extra-curricular bus run on Monday, Wednesday and Friday takes 2 hours a day to perform, for a total of 6 hours. The rate for the extra-curricular bus run is \$20.00 per hour, as stated in the job posting.


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Calculation of 1/7 of daily rate:					
For Thursday:					
Annual Pay Table					\$24,900.00
Days employed					200.00
Total daily rate - Thursdays					\$ 124.50
One-seventh (1/7) of total daily salary - Thursday					\$ 17.79
For Friday:					
Daily rate - regular duty					\$ 124.50
Extra-curricular duty (2 hours x \$20/hr)					\$ 40.00
Total daily rate - Fridays					\$ 164.50
One-seventh (1/7) of total daily salary - Friday					\$ 23.50


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Calculation:			Hourly		
	Hours		Rate		Total
Regular hours worked for the week (Including lunch period)	30.0		\$ 20.75		\$ 622.50
Extra-curricular duty (\$20/hr stated in the job posting)	6.0		\$ 20.00		120.00
Extra-duty bus run - Thursday (1/7 daily rate) (See below)	2.5		\$ 17.79		44.48
Extra-duty bus run - Friday (1/7 daily rate) (See below)	3.5		\$ 23.50		82.25
Regular weekly compensation	42.0				\$ 869.23
Regular pay for actual hours worked					\$ 869.23
Divided by total hours worked					42.00
Weighted average (Blended) rate for overtime hours					\$ 20.70
Overtime premium rate (1/2 of weighted average rate)					\$ 10.35
Overtime hours worked					2.00
Overtime pay					\$ 20.70
Total pay for the week					\$ 889.93


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Scenario #8 - Overtime Pay During Week with a School Holiday (No Overtime):

During a week that contained a school holiday, a bus operator worked 6 hours per day performing his regular duties during the four workdays during the week, for a total of 24 hours. He is employed for 200 days, and his annual salary is \$24,900, consequently his hourly rate is \$20.75 (Daily rate of \$124.50 divided by 6 hours). The bus operator worked 6 hours per day performing his regular duties during the 4 workdays in the week, for a total of 24 hours; he had an extra-curricular bus run of 2 hours a day on Monday, Wednesday and Friday for a total of 6 hours. He also had an extra-duty bus run of 3 hours on Thursday. The rate for the extra-curricular run is \$20, as stated in the job posting.



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Calculation:		Hours	Hourly Rate	Total
Regular hours worked for the week (Including lunch period)		24.0	\$ 20.75	\$ 498.00
Extra-curricular duty (\$20/hr stated in the job posting)		6.0	\$ 20.00	120.00
Extra-duty bus run (usual hourly rate)		3.0	\$ 20.75	62.25
Regular weekly compensation		33.0		\$ 680.25
Regular pay for the school holiday		6.0	\$ 20.75	\$ 124.50
Premium pay for extra-duty run (1/2 of usual hourly rate)		3.0	\$ 10.38	\$ 31.14
Regular pay for actual hours worked				\$ 680.25
Divided by total hours actually worked				33.00
Weighted average (Blended) rate for overtime hours				\$ 20.61
Overtime premium rate (1/2 of weighted average rate)				\$ 10.31
Overtime hours worked				-
Overtime pay				\$ -
Total pay for the week				\$ 835.89



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Scenario #9 - Overtime Pay During Week with a School Holiday (More than 40 hours):

Same scenario as the preceding example, except that the bus operator works more than 40 hours during the workweek in which there is a legal school holiday. The bus operator is employed for 200 days, and his annual salary is \$24,900, consequently his hourly rate is \$20.75 (Daily rate of \$124.50 divided by 6 hours). The bus operator worked 6 hours per day performing his regular duties during the 4 workdays in the week, for a total of 24 hours; he had an extra-curricular bus run of 2 hours a day on Monday, Wednesday and Friday for a total of 6 hours and he had two extra-duty trips of 6 hours each on Tuesday and Thursday. The rate for the extra-curricular run is \$20, as stated in the job posting.



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Calculation:		Hours	Hourly Rate	Total
Regular hours worked for the week (Including lunch period)	24.0		\$ 20.75	\$ 498.00
Extra-curricular duty (Stated in the job posting)	6.0		\$ 20.00	120.00
Extra-duty bus run (usual hourly rate)	12.0		\$ 20.75	249.00
Regular weekly compensation	42.0			\$ 867.00
Regular pay for the school holiday	6.0		\$ 20.75	\$ 124.50
Premium pay for extra-duty run (1/2 of usual hourly rate)	12.0		\$ 10.38	\$ 124.56
Regular pay for actual hours worked				\$ 867.00
Divided by total hours worked				42.00
Weighted average (Blended) rate for overtime hours				\$ 20.64
Overtime premium rate (1/2 of weighted average rate)				\$ 10.32
Overtime hours worked				2.00
Additional overtime pay due (2 hrs x \$10.32/hr - 12 hrs x \$10.32/hr) (See Note 2)				\$ -
Total pay for the week				\$ 1,116.06



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Scenario #10 - Overtime Pay While Working a Split Shift:

A custodian normally works a split shift from 7:00 am - 11:00 am and from 4:00 pm - 8:00 pm each day, actually working 8 hours a day. He is employed for 200 days, and his regular annual salary is \$29,750 consequently his hourly rate is \$17.50 (Daily rate of \$148.75 divided by 8.5 hours). During the week, he also worked 2 hours cleaning the gym after a student dance sponsored by the band boosters club as a fund raiser. Is the custodian entitled to overtime and how is it calculated?

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Calculation of 1/8 of daily rate:					
Annual Pay Table					\$29,750.00
Days employed					200.00
Daily rate - regular duty					\$ 148.75
Pay for a 30 minute lunch period (0.5 hrs x \$17.50)					\$ 8.75
Total daily salary					\$ 157.50
One-eighth (1/8) of total daily salary					\$ 19.69

Calculation of 1/7 of daily rate:					
Annual Pay Table					\$29,750.00
Days employed					200.00
Daily rate - regular duty					\$ 148.75
Pay for a 30 minute lunch period (0.5 hrs x \$17.50)					\$ 8.75
Total daily salary					\$ 157.50
One-seventh (1/7) of total daily salary					\$ 22.50

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Calculation:			Hourly		
	Hours		Rate		Total
Regular hours worked for the week (excluding lunch period)	40.0		\$ 17.50		\$ 700.00
Lunch period (See note)	2.5		\$ 17.50		157.50
Additional pay for working a split shift (1/8 of daily pay)	-		\$ 19.69		19.69
Extra-duty assignment (1/7 of daily rate per hour)	2.0		\$ 22.50		45.00
Regular weekly compensation	44.5				\$ 922.19
Regular pay for actual hours worked					\$ 922.19
Divided by total hours worked					44.50
Weighted average (Blended) rate for overtime hours					\$ 20.72
Overtime premium rate (1/2 of weighted average rate)					\$ 10.36
Overtime hours worked					4.5
Overtime pay					\$ 46.62
Total pay for the week					\$ 968.81

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Scenario #11 - Overtime Pay on Call-out on a Saturday:

A custodian normally works a 40-hour week. He is called out on a Saturday to check the heat at the school. He works for 1 hour that Saturday. WVC 18A-4-8(e) provides that he must be paid for a half days work since he was called out on a Saturday. His hourly rate is \$20. How is his pay calculated for overtime?

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Calculation:			Hourly		
	Hours		Rate		Total
Regular hours worked for the week (Including lunch period)	40.00		\$ 20.00		\$ 800.00
Saturday call-out (Actual hours worked @ regular rate)	1.00		\$ 20.00		20.00
Regular weekly compensation	41.00				\$ 820.00
Additional Pay for Saturday call-out (Min of 4 hrs - half day)	3.00		\$ 20.00		\$ 60.00
Regular pay for actual hours worked					\$ 820.00
Divided by total hours worked					41.00
Weighted average (Blended) rate for overtime hours					\$ 20.00
Overtime premium rate (1/2 of weighted average rate) (See note)					\$ 10.00
Overtime hours worked					1.00
Overtime pay					\$ 10.00
Total pay for the week					\$ 890.00


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Scenario #12 - Overtime Pay for an Overnight Trip:

A bus operator works 40 hours each workweek (7.5 hours per day of work time plus a 30-minute duty-free lunch period) performing his regular morning and evening bus duties. He is employed for 200 days, and his annual salary is \$28,000, consequently his hourly rate is \$17.50 (Daily rate of \$140.00 divided by 8 hours). During this particular workweek, he accepts an extra-duty bus run over the weekend leaving on the trip at 6:00 pm Friday evening and arriving at the hotel at 10:00 pm. On the return trip he leaves the hotel at 4:00 pm Saturday evening and arrives at the school at 8:00 pm. He is told before the trip that he will be relieved of all duties upon arrival at the hotel until 4:00 pm Saturday, when he is to transport the students on the return trip.


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Calculation of 1/7 of daily rate:					
Annual Pay Table					\$28,000.00
Days employed					200.00
Daily rate - regular duty					\$ 140.00
Daily total salary					\$ 140.00
One-seventh (1/7) of daily total salary					\$ 20.00


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Calculation:			Hourly		
	Hours		Rate		Total
Regular hours worked for the week (Including lunch period)	40		\$ 17.50		\$ 700.00
Extra-duty bus run (1/7 daily rate) (See below)	8		\$ 20.00		160.00
Regular weekly compensation	48				\$ 860.00
Additional Pay for Saturday (Over 3.5 hrs must pay full day)	4		\$ 17.50		\$ 70.00
Regular pay for actual hours worked					\$ 860.00
Divided by total hours worked					48.00
Weighted average (Blended) rate for overtime hours					\$ 17.92
Overtime premium rate (1/2 of weighted average rate)					\$ 8.96
Overtime hours worked					8.00
Overtime pay					\$ 71.68
Total pay for the week					\$ 1,001.68


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Scenario #13 - Overtime Pay Using the Separate Rates Method:

A custodian works 40 hours as a custodian during the week at a rate of \$20 per hour. He also has an extra-curricular contract to cut the grass on weekends at \$5.15 per hour. There are two methods for determining an employee's overtime rate when he/she works two or more jobs at different pay rates. One is the weighted average method and the other is the separate rates method.

Calculation - Weighted Average Method:			Hourly		
	Hours		Rate		Total
Regular hours worked for the week (Including lunch period)	40		\$ 20.00		\$ 800.00
Extra-curricular duty	10		\$ 5.15		51.50
Regular weekly compensation	50				\$ 851.50
Regular pay for actual hours worked					\$ 851.50
Divided by total hours worked					50.00
Weighted average (Blended) rate for overtime hours					\$ 17.03
Overtime premium rate (1/2 of weighted average rate)					\$ 8.52
Overtime hours worked					10
Overtime pay					\$ 85.20
Total pay for the week (weighted average method)					\$ 936.70

Calculation - Separate Rates Method:		Hourly		
	Hours	Rate		Total
Regular hours for the week	40	\$ 20.00		\$ 800.00
Extra-curricular duty	10	\$ 5.15		51.50
Regular weekly compensation	50			\$ 851.50
Overtime premium rate for work as a custodian (1/2 of regular rate)				\$ 10.00
Overtime premium rate for cutting the grass (1/2 of extra-curricular rate)				\$ 2.58
Overtime hours worked cutting the grass				10
Overtime pay				\$ 25.80
Total pay for the week (separate rates method)				\$ 877.30
Difference				\$ (59.40)

Questions?



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