

Education Code 45041

- A person in a position requiring certification qualifications who serves less than a full school year shall receive as salary only an amount that bears the same ratio to the established annual salary for the position as the number of working days he serves bears to the total number of working days plus institutes in the annual school term, and any other day when the employee is required by the governing board to be present at the schools of the district.
- Notwithstanding any provisions of this section to the contrary, a person in a position requiring certification qualifications who serves a complete semester shall receive not less than one-half of the established annual salary for the position.
- This section shall not be so construed as to prevent the payment of compensation to a person while on leave of absence when the payment of the compensation is authorized by law.
- In the event any such person dies during the school year, his estate shall be entitled to receive, as salary owed to the decedent, an amount that bears the same ratio to the established annual salary for the position as the number of working days he served bears to the total number of working days plus institutes in the annual school term, and any other day when the employee was required by the governing board to be present at the schools of the district, less any salary paid to the decedent prior to his death.

(Enacted by Stats. 1976, Ch. 1010.)

Certificated Late Hire

Certificated Teacher is hired to teach an Art Class October 1 – June 3, after the start of the school year. She is on the Board Approved 10-month calendar and certificated salary schedule.

October	. . . . . U U U U U U U U U	22.0	.0	Yes
November	U U U U U U U U U U U U U U U .	15.0	.0	Yes
December	. . . . . U U U U U U U U U U U U U U U U U U	14.0	.0	Yes
January	U U U U U U U U U U U U	19.0	.0	Yes
February	. . . . . U U U U U U U U U U .	19.0	.0	Yes
March	. . . . . U U U U U U U U U U U U U U	18.0	.0	Yes
April	. . . . . U U U U U U U U U	21.0	.0	Yes
May	U U U U U U U U U U .	21.0	.0	Yes
June U	3.0	.0	Yes

152 Work Days

- o 152 days divided by 186 days equals .82.
- o This employee's assignment/salary will be set up as 82% FTE.
- o Although she is working full time during her assigned days she is only working 152 days of a regular full-time certificated calendar year/ assignment.
- It is important to remember that the certificated employee must be paid at the correct monthly rate of pay to ensure that the accurate full-time equivalent (FTE) service credit is reported to CalSTRS.

Salary Computation Example - Full Time Teacher working the entire year

10 Certificated Teacher Contract Period:	Aug 13-June 3
Annual Base Board Approved Salary:	\$47,513.00 (Step 1/Col 1)
FTE (1.0 x \$47,513.00)	\$47,513.00
Base Contract Days	186
Pay Period	10
Monthly Pay Rate	\$47,513/10=\$4,751.30
Daily Pay Rate	\$47,513/186=\$255.45

Late Hire or Prorated Teacher working a partial year

10 Certificated Teacher Contract Calendar:	Aug 13-June 3
Actual Annual Base Board Approved Salary:	\$47,513.00 (Step 1/Col 1)
Actual Employee Start Date:	10/1/15
Actual Calendar Contract Work Days:	152
1.0 FTE Daily Rate x Actual Work Days:	\$255.45x152=\$38,828.40
Amount Due to the Employee for the remaining 9 months	\$38,828.40
You can verify this amount by taking \$38,828.40/\$47,513.= .82 (82% FTE)	
Per Ed Code the salary should then be adjusted as follows:	
November thru June (9 months) \$4,751.30 x 9 =	\$42,761.70
Actual Amount Owed for the Annual Contract:	\$38,828.40
Subtract the amount calculated for Nov-June	<u>\$42,761.70</u>
Remaining balance will be their October Pay	\$ 3,933.30

CLASSIFIED SALARY COMPUTATION

Classified Work Days and Salary Computation

- Classified employees can be paid based upon an hourly or monthly salary schedule. Per Ed Code 45203, all probationary and permanent classified employees that belong to a classified service bargaining unit are entitled to holiday and vacation pay. Classified Substitutes or short term classified employees are not entitled to vacation pay under Ed Code.
- Classified employees are entitled to vacation pay under Ed Code 45197, upon completion of their initial probation period. If a classified employee resigns or terminates they are entitled to a lump-sum vacation pay off for any earned/unused vacation. If they have been advance vacation and have not actually earned it then the district shall deduct the unearned vacation from their final paycheck.

Classified Pay Rate Factors

Daily Rate Factor - Most Daily Rate Factors take the number of days per month divided by the monthly salary rate.

Daily Rate Factors and Computation examples:

21.67 Standard Work Days per Month				21.75 Standard Work Days per Month			Real Work Days per month can vary.	
# Weekly Work Days	# of Work Weeks	Calendar Days	Calendar Months	Calendar Days	Weekend Days (52 x 2)	Total Work Days per year	Real Work Days per month can vary between 20, 21, 22 and 23..	
5	52	260	12	365	104	261	The average closed to 22 days.	
5 weekly work days multiplied by 52 weeks = 260 days per year				365 days minus 104 Wkend Days = 261 work days				
260 days divided by 12 months = 21.67				261 divided by 12 months = 21.75				

Hourly Rate Factor - Calculating an Hourly Rate Factor from a monthly salary rate. This can be used when paying overtime.

Hourly Rate Factors and Computation examples:

173.33 Standard Hours per Month				174 Standard Hours per Month			176 Standard Hours per Month	
Hours worked per day	Days per Week	Calendar Weeks	Calendar Months	Calendar Days	Weekend Days (Sat/Sun)	Work Days per Year	Standard Days per Month	Work Hours per day
8	5	52	12	365	104 (52 x 2)	261	22	8
8 hrs x 5 days = 40 hours per week				261 days per year x 8 hours per day = 2088 hours			22 days x 8 hours = 176	
40 hours x 52 weeks = 2080 hrs per year				2088 hours divided by 12 Months = 174				
2080 hours divided by 12 months = 173.33								

Education Code 45203 excerpt

- All probationary or permanent employees that are a part of the classified service shall be entitled to the following paid holidays provided they are in a paid status during any portion of the working day immediately preceding or succeeding the holiday:
 - January 1
 - February 12 known as "Lincoln Day"
 - the third Monday in February known as "Washington Day"
 - the last Monday in May known as "Memorial Day"
 - July 4
 - the first Monday in September known as "Labor Day"
 - November 11 known as "Veterans Day,"
 - The Thursday in November proclaimed by the President as "Thanksgiving Day"
 - December 25
- School recesses during the Christmas, Easter, and mid-February periods shall not be considered holidays for classified employees who are normally required to work during that period.
 - However, this shall not be construed as affecting vacation rights specified in this section.
- Regular employees of the district who are not normally assigned to duty during the school holidays of December 25 and January 1 shall be paid for those two holidays provided that they were in a paid status during any portion of the working day of their normal assignment immediately preceding or succeeding the holiday period.
- When a holiday listed in this section falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. When a holiday listed in this section falls on a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed. When a classified employee is required to work on any of these holidays, he or she shall be paid compensation, or given compensating time off, for such work, in addition to the regular pay received for the holiday, at the rate of time and one-half the employee's regular rate of pay.

Education Code 45197 excerpt (Paid Vacation)

- Every public school employer shall grant to regular classified employees an annual vacation at the regular rate of pay earned at the time the vacation is commenced.
- Vacation shall be as determined by the public school employer, but not less than five-sixths of a day for each month in which the employee is in a paid status for more than one-half the working days in the month, provided the employee is regularly employed five days per week, seven to eight hours a day.
- An employee in a paid status for less than one-half the working days in a month shall have his vacation credit accrued.

OVERTIME

Exempt Employees

- Fair Labor Standards Act (FLSA) defines that “White Collar” employees are exempt from overtime requirements. The employee classification for an exempt employee is based upon their actual job duties, not the job title. To be exempt the employee must meet both the duties and salary tests of their categories.
- The US Department of Labor is proposing to update the regulations governing which executive, administrative, and professional employees (white collar workers) are entitled to the Fair Labor Standards Act’s minimum wage and overtime pay protections. The Department of Labor last updated these regulations in 2004, and the current salary threshold for exemption is \$455 per week (\$23,660 per year).
- With this proposed rule, the Department of Labor seeks to update the salary level required for exemption to ensure that the FLSA’s intended overtime protections are fully implemented, and to simplify the identification of nonexempt employees, thus making the executive, administrative and professional employee exemption easier for employers and workers to understand and apply.
- Currently, Certificated Staff meet the exemption under the professional and/or administrative tests. Some classified employees may be exempt from overtime by meeting the Executive, Administrative or Computer exemption test.

Non-Exempt Employees

- Non-Exempt employees are employees who do not qualify as Exempt. Non-Exempt employees must be paid overtime based upon Federal, State or Collective Bargaining Unit Agreements that provide the best overtime benefit to the employee.

Overtime Rules for School Districts

There are three sets of regulations that apply:

1. **Collective Bargaining Agreements (CBA)**

The CBA may provide language on overtime that is beneficial to the employees of the bargaining unit because it exceeds the requirements of Education Code and Fair Labor Standards (FLSA). In this case the overtime calculations will be based upon the CBA.

2. **California Education Code (Ed Code) 45130**

Ed Code provides overtime requirements for “non-exempt” employees who have been defined as “classified service”.

Ed Code sets the formula for “Regular Rate of Pay” based upon the definition of “classified service” by requiring the formula to include all hours compensated instead of only the hours worked. This provides a better benefit to the employee when there is no CBA. Ed Code 45128/88027 provides additional information to determine “Regular Rate of Pay”.

3. Fair Labor Standard Acts (FLSA)

A “non-exempt” employee who is not covered by a CBA or Ed Code should be paid overtime in accordance with FLSA regulations. FLSA regulations are always considered for other employee pay situations that are not addressed in a CBA or Ed Code.

FLSA sets the formula for “Regular Rate of Pay” only requiring all includible compensation to be divided by time worked.

- In order to determine if the hours worked should be paid as overtime you must consider the following:
 - What regulation applies to the employee?
 - Does the CBA address overtime?
 - If the CBA does not address overtime does the employee position meet the Ed Code definition of “Classified Service”?
 - If the employee position does not meet the Ed Code definition, then determine the overtime based upon FLSA.
- Overtime is calculated based upon the employee’s Regular Pay Rate.

Regular Pay Rate Includes	Regular Pay Rate Excludes
Longevity	Fringe Benefits
Shift Differential	Discretionary Bonuses
Bilingual Stipends	Uniform Allowance
Vacation, Sick Leave, Holiday	Reimbursed Expenses
Excused Paid Leave	(Phone, Car, Cell, etc...)
Non-Discretionary Bonuses	
Retroactive Pay, Costs of Living	
Cash In-Lieu	

- The Regular Rate of Pay includes all compensation for employment except payments specifically exempted by FLSA.
- Remember to determine which of the three regulations provide the better benefit to the employee.
- When a non-exempt employee is paid two or more different pay rates for doing two or more jobs, overtime is requested to be calculated taking all jobs into consideration except when all of the following factors apply:
 - The part-time or secondary position is in a different capacity from the primary position
 - The work is performed solely at the employee’s option
 - The work is only performed on an occasional and sporadic basis

- Calculating the overtime rate when there are multiple job pay rates, a district can use one of the three following methods:
 - **Weighted Average Method**
 - Total straight time wages for the workweek at all applicable pay rates divided by total hours worked at all jobs performed during the week.
 - **Rate in Effect Method**
 - Mutual agreement to compensate the overtime based on the rate of the job overtime was earned.
 - **Highest Regular Hourly Rate**
 - Pay total overtime at the highest hourly rate of the jobs.

Examples Calculating Overtime

EXAMPLE #1 – Overtime Hourly Non-Exempt Employee

Employee #9352 is a Night Custodian he has worked a total of 44 hours during one week at \$17.36 per hour.

1. Multiply the number of hours x hourly rate
 - a. $44 \text{ hours} \times \$17.36 \text{ per hour} = \763.84
2. Multiply the hourly rate x .5 x 4 overtime hours = premium pay
 - a. $\$17.36 \text{ per hour} \times .5 \times 4 \text{ hours} = \$34.72 \text{ premium pay}$
3. Total pay for the workweek + premium pay for the overtime = Total weekly compensation
 - a. $\$763.84 \text{ regular pay for the workweek} + \$34.72 \text{ overtime premium} = \798.56

The reason you multiply the regular hourly rate by .5 rather than 1.5 (time and a half) is because the overtime hours have already been calculated at the straight time in paying the regular rate.

EXAMPLE #2 – Overtime Salaried Non-Exempt Employee

Employee #9352 is a Night Custodian he has worked over 40 hours during one week, he is a salaried employee.

1. Convert the employee's salary into an hourly rate.
 - a. Multiply the monthly salary x 12 months
 $\$3,009.00 \text{ monthly salary} \times 12 \text{ months} = \$36,108.00 \text{ Annual Salary}$
 - b. Multiply the normal hours worked each week x 52 weeks
 $40 \text{ monthly hours} \times 52 \text{ weeks} = 2080 \text{ total hours}$
 - c. Divide the Annual Salary by the total hours
 $\$36,108.00 \text{ annual salary} \text{ divided by } 2080 \text{ total hours} = \17.36 per hour
2. Calculate the amount of overtime pay
 - a. Multiply the hourly rate x 1.5 (time and a half) x 8 hours =
 $\$17.36 \text{ per hour} \times 1.5 \text{ (time and a half)} \times 8 \text{ hours} = \$208.32 \text{ overtime pay}$
3. Add the overtime pay to the monthly salary amount
 - a. $\$208.32 \text{ overtime pay} + \$3,009.00 \text{ monthly salary} = \$3,217.32 \text{ monthly pay}$

In this case, 1.5 was used instead of .5 as the employee has only been paid for working 40 hours not 48 hours.

Remember to consider any impact on retirement reporting, when setting it up in the payroll system.

Examples Identifying Overtime Hour

Identifying Overtime Hours - Example 1					Identifying Overtime Hours - Example 2					Identifying Overtime Hours - Example 3				
Classified 4 hour Employee					Classified 3 hour Employee					Short Term - Substitute Employee				
Workweek is Monday thru Sunday Based on 40 hour Work					Workweek is Monday thru Sunday Based on 40 hour Work Week									
Collective Bargaining Agreement pays overtime based on Education Code Provisions					Collective Bargaining Agreement provides overtime based on Education Code Provisions									
February	Reported	Straight	1.5	NOTES	February	Reported	Straight	1.5	NOTES	February	Reported	Straight	1.5	NOTES
	Hours	Time	OT			Hours	Time	OT			Hours	Time	OT	
3 Mon	4	4			3 Mon	3	3			3 Mon	5	5		
4 Tue	4	4			4 Tue	3	3			4 Tue	5	5		
5 Wed	4	4			5 Wed	3	3			5 Wed	5	5		
6 Thur	4	4			6 Thur	3	3			6 Thur	5	5		
7 Fri	5	5			7 Fri	5	5			7 Fri	5	5		
8 Sat	6		6	Ed Code 45131- 6th	8 Sat	6	6			8 Sat	5	5		
9 Sun	4		4	Ed Code 45131- 7th	9 Sun	4		4	Ed Code 45131- 7th	9 Sun	3	3		
Total	31	21	10		Total	27	21	4		Total	33	33		
10 Mon	4	4			10 Mon	3	3			10 Mon	7	7		
11 Tues	8	8			11 Tues	8	8			11 Tues	7	7		
12 Wed	8	8			12 Wed	8	8			12 Wed	7	7		
13 Thur	8	8			13 Thur	8	8			13 Thur	7	7		
14 Fri	8	8			14 Fri	8	8			14 Fri	7	7		
15 Sat	6		6	Ed Code 45131- 6th	15 Sat	7	5	2	Over 40 hours a	15 Sat	6	5	1	FLSA over 40 hours
16 Sun					16 Sun					16 Sun				
Total	42	36	6		Total	42	40	2		Total	41	40	1	
17 Mon	4	4			17 Mon	3	3			17 Mon	7	7		
18 Tue	9	8	1	Ed code 45128- over	18 Tue	9	8	1	Over 8 hours	18 Tue	9	9		
19 Wed	9	8	1	Ed code 45128- over	19 Wed	9	8	1	Over 8 hours	19 Wed	9	9		
20 Thur	5	5			20 Thur	4	4			20 Thur	7	7		
21 Fri	4 Sick	4		Paid 4 hours sick	21 Fri	3	3			21 Fri	7	7		
22 Sat					22 Sat					22 Sat				
23 Sun					23 Sun					23 Sun				
Total	31	29	2		Total	28	26	2		Total	39	39		
24 Mon	4	4			24 Mon	3	3			24 Mon	7	7		
25 Tues	4	4			25 Tues	3	3			25 Tues	7	7		
26 Wed	4	4			26 Wed	3	3			26 Wed	7	7		
27 Thur	4	4			27 Thur	3	3			27 Thur	Sick			Unpaid when
28 Fri	4	4			28 Fri	3	3			28 Fri	7	7		
01 Sat					01 Sat					01 Sat				
Total	20	20			Total	15	15			Total	15	15		
Monthly	124	106	18		Monthly	112	102	8		Monthly	141	140	1	
Under the Education Code, this employee is entitled to overtime when working more than 8 hours a day or 40 hours in a work week. Employee is also entitled to overtime for any hours worked on the 6th or 7th day.					Under the Education Code, this employee is entitled to overtime when working more than 8 hours a day or 40 hours in a work week. Since the employee works less than a 4 hour assignment, overtime for the 6th day follows the rules of Ed Code 45128. Ed Code 45131 provides for overtime for all hours worked on the 7th day.					Under Ed Code 45103, a short term or substitute employee is not considered a "classified" employee for Ed code benefits such as sick leave and/or overtime. However, under FLSA, they are considered "employees" and must be paid for any time worked over 40 hours in a work week.				