

Applying the Fair Labor Standards Act to classified employees



Spotlight on Policy

Policies and Regulations You Probably Never Knew Existed

Under the Fair Labor Standards Act, Norfolk Public Schools has two types of employees — those *covered* by the federal law and those who are *exempt*. In addition to administrators, managers, and directors, **exempt employees include all employees on the teacher scale, regardless of their positions.** (While teachers are excluded from FLSA, other policies and the Memorandum of Understanding set workday standards.)

The FLSA covers all support employees, including teacher assistants, parent technicians, attendance officers, office personnel, custodial, food service, transportation and maintenance personnel. The school system must pay **covered employees** for all time that they work. Covered employees may not volunteer to perform their duties without being paid. If administrators “suffer or permit” covered employees to work beyond their regular hours, administrators must identify funds to pay for the work. **Covered employees are paid at**

their regular hourly rate for up to 40 hours weekly, and at one and one-half the hourly rate for all time beyond 40 hours.

Comp time may be offered instead of pay, but the choice between the two rests with the employee.

Teacher assistants and parent technicians work and are paid for a 6½-hour day, plus a 30-minute unpaid, duty-free lunch break. **If they or any other classified employees supervise students during their lunch break, they must be paid.**

If they stay late after school, or come in early to perform their duties, they must be paid. If they are expected to attend staff meetings or evening school events, or supervise out-of-town field trips, they must be paid for the time beyond their regular schedule. If they are directed to take work home in

the evening, they must be paid.

Teachers and librarians, if you supervise an assistant you may not assign her duties after hours or permit him to take work home because you may not authorize extra pay for this work. If there is no extra pay, such activities are violations of the Fair Labor Standards Act.

Assistants, if you have been expected to perform such additional work and have not been paid, you should prepare a memo to your principal listing the dates and times you worked, and request that you be paid. If the pay is not forthcoming, call the EAN for assistance.

People who work in schools are usually extremely generous and sincerely concerned to provide the best experience for their students. Many are unaware of the Fair Labor Standards Act and how it applies to support personnel. We must all work together to assure that support employees are treated fairly, and the Fair Labor Standards Act is observed.

