

**Education Code Sections**

**88026. Workweek.** The workweek of a classified employee, as defined in Section 88033 or Section 88076, shall be 40 hours. The workday shall be eight hours. These provisions do not restrict the extension of a regular workday or workweek on an overtime basis when such is necessary to carry on the business of the district. Nothing in this section shall be deemed to bar the district from establishing a workday of less than eight hours or a workweek of less than 40 hours for all or any of its classified positions.

Notwithstanding the provisions of this section and Section 88027, a governing board may, with the approval of the personnel commission, where applicable, exempt specific classes of positions from compensation for overtime in excess of eight hours in one day, provided that hours worked in excess of 40 in a calendar week shall be compensated on an overtime basis. Such exemption shall be applied only to those classes which the governing board and personnel commission, where applicable, specifically find to be subject to fluctuations in daily working hours not susceptible to administrative control, such as security patrol and recreation classes, but shall not include food service and transportation classes.

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.

**88027. Overtime.** 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.

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**88028. Compensatory Time Off.** 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. Exclusion from Overtime Provisions.** Notwithstanding the provisions of 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 such 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 which 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. Overtime: Length of Workday.** Notwithstanding Section 88026 the workweek shall consist of not more than five consecutive working days for an 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 the provisions of 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) of this chapter.

**88033. Age Limits.** (a) Notwithstanding any other provisions of law, no minimum or maximum age limits shall be established for the employment or continuance in employment of persons as part of the classified service.

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(b) Any person possessing all of the minimum qualifications for any employment shall be eligible for appointment to that employment, and no rule or policy, either written or unwritten, heretofore or hereafter adopted, shall prohibit the employment or continued employment, solely because of the age of any such person in any community college employment who is otherwise qualified therefore.

(c) No person shall be employed in community college employment while he or she is receiving a retirement allowance under any retirement system by reason of prior school or community college employment, except as provided in Article 5 (commencing with Section 21150) of Chapter 8 of Part 3 of Division 5 of Title 2 of the Government Code.

(d) Subdivision (c) shall be inapplicable to persons who were employed in the classified service of any community college district as of September 18, 1959, and who are still in the employ of the same district on September 15, 1961, and the rights of those persons shall be fixed and determined as of September 18, 1959, and none of these persons shall be deprived of any right to any retirement allowance or eligibility for any such allowance to which he or she would have been entitled as of that date. Any such person who, by reason of any provision of law to the contrary, has been deprived of any right to retirement allowance or eligibility for such an allowance, shall, upon the filing of application therefore, be reinstated to those rights as he or she would have had, had this subdivision been in effect on September 18, 1959.

(e) 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).

**88076 Establishment of Classified Service; Definitions; Positions Excluded.** (a) The commission shall classify all employees and positions within the jurisdiction of the governing board or of the commission, except those which are exempt from the classified service, as specified in subdivision (b). The employees and positions shall be known as the classified service. "To classify" shall include, but not be limited to, allocating positions to appropriate classes, arranging classes into occupational hierarchies, determining reasonable relationships within occupational hierarchies, and preparing written class specifications. (b) The following positions and employees are exempt from the classified service:

- (1) Academic positions.
- (2) Part-time playground positions.
- (3) Full-time students employed part time.
- (4) Part-time students employed part time in any college work-study program or in a work experience **education** program conducted by a community college which is financed by state or federal funds.
- (5) Apprentice positions.

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(6) Positions established for the employment of professional experts on a temporary basis for a specific project by the governing board or by the commission when so designated by the commission. Employment of either full-time or part-time students in any college work-study program, or in a work experience **education** program shall not result in the displacement of classified personnel or impair existing contracts for services. However, nothing in this section shall prevent an employee, who has attained regular status in a full-time position, from taking a voluntary reduction in time and retaining his or her regular status under the provisions of this law. No person whose contribution consists solely in the rendition of individual personal services and whose employment does not come within the scope of the exceptions listed above shall be employed outside the classified service. A part-time position is one for which the assigned time, when computed on an hourly, daily, weekly, or monthly basis, is less than 87 1/2 percent of the normally assigned time of the majority of employees in the classified service.

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- A. Incumbents of positions within classes designated as Executive, Administrative, or Supervisory are exempt from the overtime payment provisions of this rule, except as provided in Paragraph F.5., below.
- B. For all other persons employed on an eight-hour day basis, overtime up to 30 hours a week is permitted when required and authorized. No one shall require an employee to work overtime unless it is authorized and compensable. Such overtime shall be approved and reported according to procedures established by the Chancellor and the Board of Trustees. No employee shall be permitted to work a total of more 70 hours a week. Time limitations in this rule do not apply to overtime caused by extra emergency such as fire, flood, or danger to life and property, or to work upon public, military, or naval works or defenses in time of war, as set forth in Section 17, Article XX, of the State Constitution.
- C. Overtime shall be compensated as either cash payment or compensatory time off at a rate equal to and one-half the regular rate of pay of the employee who worked overtime. If compensatory time off is granted in lieu of cash payment, such compensatory time off shall be taken by the employee before the end of the third week of the pay period which immediately follows the pay period in which the overtime was worked. Any compensatory time off which has not been taken by the employee within the aforementioned time period shall be compensated as a cash payment on the regular pay day for the pay period which immediately follows the pay period in which the overtime was worked.

Except as indicated below, overtime shall be computed only on the basis of hours paid status, exclusive of mealtime, in excess of eight hours in any one day or 40 hours in any workweek, except that any continuous service which extends beyond the hour of 12 midnight and which cumulates to a total of more than eight hours shall be compensated at the overtime rate for those hours worked in excess of eight continuous hours. Less than 15 minutes overtime in any one day shall not be counted.

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Notwithstanding the provisions above:

1. An employee who has been in paid status five days within a workweek shall receive overtime compensation for any work required on the sixth day of the workweek, provided that his total number of hours in paid status prior to the sixth day was 20 hours or more.
  2. An employee who has been in paid status six days within a workweek shall receive overtime compensation for any work required on the seventh day of the workweek, regardless of the number of hours in paid status during the workweek.
  3. For the purpose of the provisions in Paragraphs 1. and 2. above, workweek is defined as Monday through Sunday and sixth day is defined as the sixth day in paid status within such a workweek, regardless of whether it falls on Saturday or Sunday.
  4. Employees who are given released time for purposes of career development will be required to work makeup time at the rate of one hour of makeup time for each two hours of released time. Time spent for makeup purposes which results in an employee being in paid status for a total of more than eight hours in any one day shall not be considered as authorized and compensable overtime for purposes of cash payment.
- D. Assignments to the following classes by reason of their variable daily hours are excluded from the time and one-half provisions of this rule, for hours worked in excess of eight hours a day, but are not excluded from overtime compensation for hours worked in excess of 40 hours per week.
- |                                    |                               |
|------------------------------------|-------------------------------|
| Agricultural Assistant             | Equestrian Manager            |
| Agricultural Technician            | Farm Manager                  |
| Athletic Trainer                   | Senior Agricultural Assistant |
| Community Services Aide            | Senior Examination Proctor    |
| Community Services Assistant       | Student Services Aide         |
| Community Services Specialist      | Student Services Assistant    |
| Educational Information Specialist | Theater Management Assistant  |
| Examination Proctor                |                               |
- E. An equitable distribution of overtime shall be made among qualified members of a given office or unit as the circumstances will permit. Need, seniority, availability, and fitness are proper factors for consideration in making this distribution.
- F. Classes with principal duties and responsibilities meeting the criteria for exemption from overtime compensation may be designated as Executive, Administrative, or Supervisory in terms of the following guidelines and, if so designated, shall be excluded from the overtime provisions of this rule, except as provided in Paragraph F.5., below:

1. Supervisory

The primary duties and responsibilities consist of the supervision of a major operating unit at the Section level, or its equivalent, and possess the following characteristics:

- a. Customarily and regularly plan, organize, direct, and review the work of other employees.
- b. Customarily establish procedures regarding the operations of the organizational unit.
- c. Customarily and regularly exercise discretionary powers and sanctions.
- d. Customarily and regularly do not personally perform duties similar to those of subordinates.

2. Administrative

The primary duties and responsibilities consist of the administration of an organizational unit at the Branch level, or its equivalent, and possess, in addition to the characteristics in Paragraph 1., above, the following:

- a. Customarily and regularly direct the activities of the organizational unit through subordinate supervisory employees.
- b. Customarily establish policies regarding the operations of the organizational unit.
- c. Customarily and regularly review recommendations and decisions of subordinates which have important effects upon the District.

3. Executive

The primary duties and responsibilities consist of the management of an organizational unit above the Branch level and possess, in addition to the characteristics in Paragraph 2., above, the following:

- a. Customarily and regularly make recommendations affecting Districtwide operations or personnel.
- b. Customarily and regularly make policy presentations to the Board of Trustees.

4. The Personnel Commission may designate other classes as Executive, Administrative, or Supervisory when special circumstances warrant exceptions to the definitions above.

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5. Classes defined in this rule as supervisory may receive overtime compensation at a rate equal to the normal rate of pay under the following conditions:

The Chancellor or his designated representative shall have discretionary power to authorize overtime compensation, in accordance with the provisions of Paragraph C., above, to an employee at a rate equal to his/her normal rate of pay when, as deemed by his/her branch head, assistant, or dean, an extraordinary or peak work load cannot be accomplished during the normal working hours of that employee, or when it is necessary for him/her to be present during other than normal working hours to supervise the work performance of his staff. Under no circumstances shall unauthorized overtime be compensable.

- G. Incumbents of positions in the following classes are assigned as Executive, Administrative, or Supervisory and are thereby exempt from the overtime payment provisions of this rule, except as provided in Paragraph F.5., above.

**EXECUTIVE CLASSES**

Chief Financial Officer/Treasurer	Director of Facilities Planning and Development
Chief Information Officer	Director of Internal Audit
Director of Accounting	Executive Director of Facilities Planning & Dev.
Director of Budget and Management Analysis	Personnel Director
Director of Business Services	Vice President, Administrative Services
Director of Employer-Employee Relations	

**ADMINISTRATIVE CLASSES**

Accounting Manager	Deputy Director, Construction Inspection.
ADA Compliance Administrator	Director of College Facilities
Administrator for College and District Public Relations	Director of Foundation
Administrator of Maintenance and Operations Standards	SAP/ERP Manager
Assistant Director, Facilities Planning & Development	Energy Program Manager
Assistant Personnel Director	Executive Assistant to the Chancellor
Associate Vice President, Administrative Services	Manager of Facilities Planning
Associate Vice President, Business Services	Payroll Manager
College Enterprise Manager	Personnel Manager
College Financial Administrator	Risk Manager
Computer and Network Operations Manager	Software Systems Engineering Manager
Contracts Manager	Systems and Programming Manager

**CHANGES:**

Add Administrator of Maintenance and Operations Standards  
Add Associate Vice President, Business Services

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**SUPERVISORY CLASSES**

Academic Personnel Specialist	Operations Manager
Art Gallery Museum Director	Registrar
Assistant Computer and Network Operations Manager	Retirement Systems Coordinator
Bookstore Manager	SAP Project Coordinator (Finance)
Community Services Manager	SAP Project Coordinator (Human Resources)
Coordinator, Business Data Warehouse	Senior Administrative Analyst
Manager, College Information Systems	Senior Financial Analyst
Data Base Systems Supervisor	Senior Food Services Manager
Data Services Manager	Senior Research Analyst
Facilities Project Manager	SFP Program Director
Financial Aid Manager	Supervising Accountant
Food Services Manager	Supervising Personnel Analyst
General Foreman	Supervising Systems and Programming Analyst
Lead Facilities Project Manager	Technical Training Coordinator
Manager of Satellite College Operations	Training and Staff Development Coordinator

- H. Employees in Executive or Administrative classes shall, if required to work on a holiday as provided in Rule 816, HOLIDAYS, be granted compensating time off on a straight time hour-for-hour basis within 12 calendar months following the months in which the holiday was worked.
- I. All classified employees who are required to work any hours that the Board of Trustees has designated as excused time shall be given equivalent time off prior to the end of the following pay period.