

COMPENSATION AND BENEFITS
SALARIES AND WAGES

DEA
(LEGAL)

STATE FUNDING

Subject to Education Code 42.2516(g) and (h) (regarding reduction in state aid for certain districts), the District is entitled to state revenue necessary to provide the District with an amount equal to \$2,500 for each classroom teacher, full-time librarian, full-time counselor, and full-time school nurse employed by the District and entitled to the state minimum salary. *Education Code 42.2516(b)(2)*

The District is entitled to state aid in an amount equal to the sum of:

1. \$500 for each full-time District employee, other than administrators or employees subject to the minimum salary schedule; and
2. \$250 for each part-time District employee, other than administrators.

Education Code 42.2513

MINIMUM SALARY
SCHEDULE —
EDUCATORS

The District shall pay each classroom teacher, full-time librarian, full-time counselor, or full-time nurse not less than the minimum monthly salary, based on the employee's level of experience, specified in Education Code 21.402 and 19 TAC 153.1021.

DEFINITIONS

'CLASSROOM
TEACHER'

"Classroom teacher" means an educator who teaches an average of at least four hours per day in an academic or career and technology instructional setting, focusing on the delivery of the Texas Essential Knowledge and Skills, and who holds the relevant certificate from SBEC. Although noninstructional duties do not qualify as teaching, necessary functions related to the educator's instructional assignment, such as instructional planning and transition between instructional periods, should be applied to creditable classroom time.

'LIBRARIAN'

"Librarian" means an educator who provides full-time library services and holds the relevant certificate from SBEC.

'COUNSELOR'

"Counselor" means an educator who provides full-time counseling and guidance services and holds the relevant certificate from SBEC.

'NURSE'

"Nurse" means an educator employed to provide full-time nursing and health care services and who meets all the requirements to practice as a registered nurse (RN) pursuant to the Nursing Practice Act and the rules and regulations relating to professional nurse education, licensure, and practice and has been issued a license to practice professional nursing in Texas.

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'FULL-TIME'	"Full-time" means contracted employment for at least ten months (187 days) for 100 percent of the school day, in accordance with the definitions of school day in Education Code 25.082, employment contract in Education Code 21.002, and school year in Education Code 25.081. <i>19 TAC 153.1022(a)</i>
PLACEMENT ON SALARY SCHEDULE	The Commissioner's rules determine the experience for which a teacher, librarian, counselor, or nurse is to be given credit in placing the teacher, librarian, counselor, or nurse on the minimum salary schedule. The District shall credit the teacher, librarian, counselor, or nurse for each year of experience, whether or not the years are consecutive. <i>Education Code 21.402(a), 21.403(c); 19 TAC 153.1022</i>
EMPLOYEES FORMERLY ON CAREER LADDER	A teacher or librarian who received a career ladder supplement on August 31, 1993, is entitled to at least the same gross monthly salary the teacher or librarian received for the 1994–95 school year as long as the teacher or librarian is employed by the same district. "Gross monthly salary" includes the amount the teacher or librarian received as a career ladder supplement under Section 16.057, as that section existed January 1, 1993. <i>Education Code 21.402(f), 21.403(d)</i> In addition, a teacher or librarian who was on level two or three of the career ladder is entitled, as long as he or she is employed by the same district, to: 1. Placement on the minimum salary schedule at the step above the step on which the teacher would otherwise be placed, if the teacher or librarian received a career ladder supplement for level two of the career ladder on August 31, 1993; or 2. Placement on the minimum salary schedule at the step two steps above the step on which the teacher would otherwise be placed, if the teacher or librarian received a career ladder supplement for level three of the career ladder on August 31, 1993. <i>Education Code 21.403(d)</i>
LEVEL TWO EDUCATORS	1. Placement on the minimum salary schedule at the step above the step on which the teacher would otherwise be placed, if the teacher or librarian received a career ladder supplement for level two of the career ladder on August 31, 1993; or
LEVEL THREE EDUCATORS	2. Placement on the minimum salary schedule at the step two steps above the step on which the teacher would otherwise be placed, if the teacher or librarian received a career ladder supplement for level three of the career ladder on August 31, 1993. <i>Education Code 21.403(d)</i>
SUPPORT STAFF COMPENSATION	The District shall pay each District employee, other than an administrator or an employee subject to the minimum salary schedule, an amount at least equal to: 1. \$500, for full-time employees. 2. \$250, for part-time employees.

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Such payment is in addition to wages the District would otherwise pay the employee during the school year.

To be eligible, the employee must be a participating member of TRS, must not be a TRS retiree, and must have provided written election of whether to designate a portion of the individual's compensation to be used as health-care supplementation.

For purposes of this support staff compensation, a "full-time" employee is one who works for a school district, a participating open-enrollment charter school, an education service center, or a combination of such entities for 30 or more hours each week. A "part-time" employee is one who works for a school district, a participating open-enrollment charter school, an education service center, or a combination of such entities for fewer than 30 hours each week.

Education Code 22.107; 19 TAC 61.1018

PAY INCREASES

The District shall not grant any extra compensation, fee, or allowance to a public officer, agent, servant, or contractor after service has been rendered or a contract entered into and performed in whole or in part. *Tex. Const. Art. III, Sec. 53*

SALARY ADVANCES
AND LOANS

The District shall not lend its credit or gratuitously grant public money or things of value in aid of any individual, association, or corporation. *Tex. Const. Art. III, Sec. 52; Brazoria County v. Perry, 537 S.W.2d 89 (Tex. Civ. App.—Houston [1st Dist.] 1976, no writ)*

DESIGNATION OF
COMPENSATION FOR
BENEFITS

An employee who is covered by a cafeteria plan or who is eligible to pay health care premiums through a premium conversion plan may elect to designate a portion of the employee's compensation to be used as health care supplementation. The amount designated may not exceed the amount permitted under federal law. *Education Code 21.103*

USE

An employee may use the compensation designated for health care supplementation for any employee benefit, including depositing the designated amount into a cafeteria plan in which the employee is enrolled or using the designated amount for health care premiums through a premium conversion plan. *Education Code 21.106*

ANNUAL ELECTION

Each school year, an active employee must elect in writing whether to designate a portion of the employee's compensation to be used as health care supplementation. The election must be made at the same time that the employee elects to participate in a cafeteria plan, if applicable. *Education Code 21.105*

DEFINITION

For purposes of the designation of compensation as health care supplementation, "employee" means an active, contributing member of TRS who:

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1. Is employed by the District;
2. Is not a retiree eligible for coverage under Insurance Code Chapter 1575 (retiree group health benefits);
3. Is not eligible for coverage by a group insurance plan under Insurance Code Chapter 1551 (state employee health insurance) or Chapter 1601 (state university employee health insurance); and
4. Is not an individual performing personal services for the District as an independent contractor.

Education Code 22.101(2)

FAIR LABOR
STANDARDS ACT

Unless an exemption applies, the District shall pay each of its employees not less than minimum wage. *29 U.S.C. 206(a)(1)*

MINIMUM WAGE

Unless an exemption applies, the District shall pay an employee not less than one and one-half times the employee's regular rate of pay for all hours in excess of forty in any workweek. *29 U.S.C. 207(a)(1); 29 CFR pt. 778*

COMPENSATORY
TIME

Nonexempt employees may receive, in lieu of overtime compensation, compensatory time off at a rate of not less than one and one-half hours for each hour of overtime work, pursuant to an agreement or understanding arrived at between the employer and employee before the performance of the work. Such agreement or understanding may be informal, such as when an employee works overtime knowing that the employer rewards overtime with compensatory time.

ACCRUAL

An employee may accrue not more than 240 hours of compensatory time. If the employee's overtime work included a public safety activity, an emergency response activity, or a seasonal activity, the employee may accrue not more than 480 hours of compensatory time. After the employee has reached these limits, the employee shall be paid overtime compensation for additional overtime work.

PAYMENT FOR
ACCRUED TIME

Compensation paid to an employee for accrued compensatory time shall be paid at the regular rate earned by the employee at the time of payment. An employee who has accrued compensatory time off shall be paid for any unused compensatory time upon separation from employment at the rates set forth at 29 U.S.C. 207(o)(4).

USE

An employee who has requested the use of compensatory time shall be permitted to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the District.

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The Fair Labor Standards Act does not prohibit the District from compelling the use of accrued compensatory time.

29 U.S.C. 207(o); Christensen v. Harris County, 529 U.S. 576 (2000); Houston Police Officers' Union v. City of Houston, 330 F.3d 298 (5th Cir. 2003)

EXEMPT
EMPLOYEES

The minimum wage and overtime provisions do not apply to any employee employed in a bona fide executive, administrative, or professional capacity. *29 U.S.C. 213(a)(1)*

ACADEMIC
ADMINISTRATORS

The term "employee employed in a bona fide administrative capacity" includes an employee:

1. Compensated for services on a salary or fee basis at a rate of not less than \$455 per week exclusive of board, lodging, or other facilities, or on a salary basis that is at least equal to the entrance salary for teachers in the District by which employed; and
2. Whose primary duty is performing administrative functions directly related to academic instruction or training in the District or department or subdivision thereof.

"Performing administrative functions directly related to academic instruction or training" means work related to the academic operations and functions in a school rather than to administration along the lines of general business operations. Such academic administrative functions include operations directly in the field of education. Jobs relating to areas outside the educational field are not within the definition of academic administration.

Employees engaged in academic administrative functions include:

1. The Superintendent or other head of an elementary or secondary school system, and any assistants, responsible for administration of such matters as curriculum, quality and methods of instructing, measuring and testing the learning potential and achievement of students, establishing and maintaining academic and grading standards, and other aspects of the teaching program;
2. The principal and any vice principals responsible for the operation of an elementary or secondary school;
3. Academic counselors who perform work such as administering school testing programs, assisting students with academic problems and advising students concerning degree requirements; and
4. Other employees with similar responsibilities.

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Jobs relating to building management and maintenance, jobs relating to the health of the students, and academic staff such as social workers, psychologists, lunch room managers, or dietitians do not perform academic administrative functions, although such employees may qualify for another exemption.

29 CFR 541.204

SALARY BASIS

To qualify as an exempt executive, administrative, or professional employee, the employee must be compensated on a salary basis, unless the employee is a teacher. Subject to the exceptions listed in the rule, an employee must receive the full salary for any week in which the employee performs any work, without regard to the number of days or hours worked. A district that makes improper deductions from salary shall lose the exemption if the facts demonstrate that the District did not intend to pay exempt employees on a salary basis. *29 CFR 541.500, .602(a), .603*

PARTIAL-DAY
DEDUCTIONS

A District employee who otherwise meets the salary basis requirements shall not be disqualified from exemption on the basis that the employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the employee's pay to be reduced or the employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one workday when accrued leave is not used by an employee because:

1. Permission for its use has not been sought or has been sought and denied;
2. Accrued leave has been exhausted; or
3. The employee chooses to use leave without pay.

Deductions from the pay of a District employee for absences due to a budget-required furlough shall not disqualify the employee from being paid on a salary basis except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

29 CFR 541.710

SAFE HARBOR
POLICY

If the District has a clearly communicated policy that prohibits improper pay deductions and includes a complaint mechanism, reimburses employees for any improper deductions, and makes a good faith commitment to comply in the future, the District will not lose the deduction unless the District willfully violates the policy by con-

tinuing to make improper deductions after receiving employee complaints.

The best evidence of a clearly communicated policy is a written policy that was distributed to employees before the improper pay deductions by, for example, providing a copy of the policy to employees upon hire, publishing the policy in an employee handbook, or publishing the policy on the District's intranet.

29 CFR 541.603(d)

TEACHERS

The term "employee employed in a bona fide professional capacity" includes any employee with a primary duty of teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in an elementary or secondary school system by which the employee is employed. The salary basis requirements do not apply to teaching professionals.

Exempt teachers include:

1. Regular academic teachers;
2. Teachers of kindergarten or nursery school pupils;
3. Teachers of gifted or disabled children;
4. Teachers of skilled and semi-skilled trades and occupations;
5. Teachers engaged in automobile driving instruction;
6. Home economics teachers; and
7. Vocal or instrumental music instructors.

Those faculty members who are engaged as teachers but also spend a considerable amount of their time in extracurricular activities such as coaching athletic teams or acting as moderators or advisors in such areas as drama, speech, debate, or journalism are engaged in teaching. Such activities are a recognized part of the schools' responsibility in contributing to the educational development of the student.

The possession of an elementary or secondary teacher's certificate provides a clear means of identifying the individuals contemplated as being within the scope of the exemption for teaching professionals. Teachers who possess a teaching certificate qualify for the exemption regardless of the terminology (e.g., permanent, conditional, standard, provisional, temporary, emergency, or unlimited) used by the state to refer to different kinds of certificates. However, a teacher who is not certified may be considered for exemption,

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provided that such individual is employed as a teacher by the employing school or school system.

29 CFR 541.303

WAGE AND HOUR
RECORDS

The District shall maintain and preserve payroll or other records for nonexempt employees containing the information required by the regulations under the Fair Labor Standards Act. *29 CFR 516.2*

TRS CONTRIBUTIONS
FOR NEW HIRES

During each fiscal year, the District shall pay an amount equal to the state contribution rate, as established by the General Appropriations Act for the fiscal year, applied to the aggregate compensation of new members of the retirement system, during their first 90 days of employment.

“New member” means a person first employed on or after September 1, 2005, including a former member who withdrew retirement contributions under Government Code 822.003 and is reemployed on or after September 1, 2005.

On a monthly basis, the District shall:

1. Certify to TRS the total amount of salary paid during the first 90 days of employment of a new member and the total amount of employer payments under this section for the payroll periods; and
2. Retain information, as determined by TRS, sufficient to allow administration of this section, including information for each employee showing the applicable salary as well as aggregate compensation for the first 90 days of employment for new employees.

The District must remit the amount required under this section to TRS at the same time the District remits the member’s contribution. In computing the amount required to be remitted, the District shall include compensation paid to an employee for the entire pay period that contains the 90th calendar day of new employment.

Gov’t Code 825.4041

TRS SURCHARGE FOR
REHIRED RETIREES

During each payroll period for which a retiree is reported, the District shall contribute to the retirement system for each retiree reported an amount based on the retiree’s salary equal to the sum of:

TRS FUND
CONTRIBUTIONS

1. The current contribution amount that would be contributed by the retiree if the retiree were an active, contributing member; and

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2. The current contribution amount authorized by the General Appropriations Act that the state would contribute for that retiree if the retiree were an active, contributing member.

HEALTH
INSURANCE
CONTRIBUTIONS

In addition, each payroll period and for each rehired retiree who is enrolled in TRS Care (retiree group health insurance), the District shall contribute to the TRS Care trust fund any difference between the amount the retiree is required to pay for the retiree and any enrolled dependents to participate in the group program and the full cost of the retiree's and enrolled dependents' participation in the group program, as determined by TRS. If more than one employer reports the retiree to TRS during a month, the amount of the required payment shall be prorated among employers.

EXCEPTION

The District is not required to contribute these amounts for a retiree who retired from the retirement system before September 1, 2005.

Gov't Code 825.4092; Insurance Code 1575.204