



State of New Jersey

DEPARTMENT OF EDUCATION
PO Box 500
TRENTON, NJ 08625-0500

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

DAVID C. HESPE
Commissioner

August 17, 2015

Mr. Christopher Cerf
State District Superintendent
Newark Public Schools
2 Cedar Street
Newark, New Jersey 07102

Dear Mr. Cerf:

The Newark Internal Audit Unit has completed an audit of the district's expenditures for overtime during the 2012-2013 and 2013-2014 fiscal years. The attached report details our findings and recommendations.

The district is required, pursuant to N.J.A.C. 6A:23A-5.6, to publicly review and discuss the findings in this report at a public board meeting no later than 30 days after receipt of the report. Within 30 days of the public meeting, the board must adopt a resolution certifying that the findings were discussed in a public meeting and approving a corrective action plan which addresses the issues raised in the findings. A copy of the resolution and the approved corrective action plan must be sent to this office within 10 days of adoption. Direct your response to my attention.

Also, pursuant to N.J.A.C. 6A:23A-5.6(c), you must post the findings of the report and the corrective action plan on your district's website.

If you have any questions, please contact Steven Hoffmann at (973) 621-2750 or via email at steven.hoffmann@doe.state.nj.us.

Sincerely,

Robert J. Cicchino, Director
Office of Fiscal Accountability and Compliance

RJC/SH:Newark Overtime Report

c: David Hespe
Robert Bumpus
Joseph Zarra
Steven Hoffmann
Clarence Joffrion

STATE OF NEW JERSEY

DEPARTMENT OF EDUCATION

NEWARK INTERNAL AUDIT UNIT

OVERTIME AUDIT

FISCAL YEARS 2012-2013 AND 2013-2014

AUGUST 2015

**NEW JERSEY DEPARTMENT OF EDUCATION
NEWARK INTERNAL AUDIT UNIT
OVERTIME AUDIT
FISCAL YEARS 2012-2013 AND 2013-2014**

Distribution List of Final Audit Report

David Hesse, Commissioner
New Jersey Department of Education

Christopher Cerf, State District Superintendent
State Operated School District of Newark

Robert Bumpus, Assistant Commissioner
Division of Field Services
New Jersey Department of Education

Robert Cicchino, Director
Office of Fiscal Accountability and Compliance
New Jersey Department of Education

Steven C. Hoffmann, Coordinating Auditor
New Jersey Department of Education

Clarence Joffrion, Supervising Auditor
Newark Public Schools

**NEW JERSEY DEPARTMENT OF EDUCATION
NEWARK INTERNAL AUDIT UNIT
OVERTIME AUDIT
FISCAL YEARS 2012-2013 AND 2013-2014**

EXECUTIVE SUMMARY

The Newark Internal Audit Unit has conducted an audit of district overtime expenditures for Fiscal Years 2012-2013 and 2013-2014.

The purpose of the audit was to determine that overtime is properly authorized, documented and paid for hours actually worked and calculated properly in accordance with union contracts, district policies and applicable regulations. In addition, the audit was designed to evaluate the district's current policies and procedures. The audit included a review of overtime payments, current policies and union contracts.

As a result of the audit, the following deficiencies were noted:

- The district overpaid eight employees an amount totaling \$10,922.34 for duplicate hours.
- The district failed to provide supporting documentation for overtime payments totaling \$56,619.00.
- Hours subject to overtime pay were calculated incorrectly for one employee.
- The district did not complying with its policy that all overtime be pre-approved in writing.
- Overtime was not always paid within the contractually required time frame.
- Timesheets were often missing required signatures.
- Overtime was not calculated correctly for Local 32 AFL-CIO.

The remainder of this report details the auditor's findings.

SCOPE

Overtime payments per district records totaled \$8,395,072 for FY 2012-2013 and \$4,590,762 for FY 2013-2014. Auditors sorted overtime for each fiscal year by employee and selected the 10 highest overtime earners from each year for testing (Exhibit 1). The overtime payments tested for FY 2012-2013 totaled \$447,607 and \$383,807 for FY 2013-2014. Auditors reviewed documentation for all overtime payments to each of the employees selected in the sample. A total of 238 timesheets were reviewed for FY 2012-2013 and 195 timesheets for FY 2013-2014.

The scope of the review included testing to determine whether or not:

- District policies and procedures concerning overtime were adequate.
- Overtime was properly authorized and documented.
- Overtime payments were properly calculated in accordance with union contracts and district policy.
- Overtime paid was for hours actually worked and was distributed in accordance with contracts.

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BACKGROUND

The district operates under eight different union contracts with various requirements for payment of overtime to employees. Two of the unions (Public School Nurses and City Association of Supervisors and Administrators) have no specific stated methods for overtime pay. Three of the unions (Building Trades Council; Local 68-68A-68B Operating Engineers and Newark Teachers Union Local 481) allow overtime to be paid on the basis of time beyond the regular work hours, which is usually seven hours per day or 35 hours per week, at a rate of time and one-half (1-1/2) or overtime allowed based on work in excess of their daily hours which is seven hours per day at time and one half (1-1/2) pay. The final three contracts (the Service Employees International Union - Local 617; the Cafeteria Workers and Local 32 AFL-CIO), require that work in excess of 40 hours per week shall be paid at the rate of time and one half (1-1/2) for hours beyond 40 hours based on their current rate of pay.

The Fair Labor Standards Act (FLSA) indicates that overtime must be paid for work in excess of 40 hours in a single work week. The FLSA defines hours worked as “the period between the time on any particular day when such employee commences his/her principal activity and the time on that day at which he/she ceases such principal activity or activities.” The FLSA states that hours worked during a given week do not include holiday, sick or vacation time taken by the employee, and accordingly an employee must perform 40 hours of actual work before overtime compensation would commence. N.J.S.A. 34:11-56a4 stipulates that every employer shall pay each of their employees who work in excess of 40 hours in any one week a rate no less than time and one-half (1-1/2) times their regular hourly wage.

The following is a summary of overtime payment requirements by union:

- **Building Trades Council** - Overtime is work beyond the regular work day and shall be calculated on the basis of time and one half; the regular hourly rate of pay multiplied by one and one half (1-1/2). Work hours by members are hours over and above the regular work hours or at any time during a designated holiday, Saturday or Sunday.
- **Local 32 AFL-CIO (Local 32)** – Employees who are assigned work in excess of 40 hours per week shall be paid at the rate of time and one-half (1-1/2). Work on Saturday, Sunday or a holiday will be paid at the overtime rate.
- **Local 68-68A-68B Operating Engineers (Local 68)** - Overtime shall be defined as extra work performed by a member of the unit over the regular work hours which prevail at the time of ratification of this agreement, or at any time during a designated holiday, Saturday or Sunday.
- **Newark Teachers Union Local 481 (Teacher-Clerk)** - School clerks working overtime shall, at the discretion of the State District Superintendent be, remunerated at a rate of time and one-half (1-1/2) after their defined seven hour workday.

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- **Service Employees International Union – Local 617 (SEIU Local 617)** - All employees who are assigned and approved to work in excess of 40 hours per week shall be paid at the rate of time and one-half (1-1/2) for hours beyond 40 hours based on their current rate of pay.
- **Cafeteria Workers** – Overtime shall be defined as all hours of regular work beyond forty (40) hours per work. Employees shall be compensated for all overtime hours, as defined, at time and one-half (1-1/2) the employee’s current hourly rate.

Detailed Findings

1. **The district overpaid eight employees an amount totaling \$10,922.34 for duplicate hours.**

During FY 2012-2013, employee #12428 was overpaid a total of \$719.19 as the result of 10.1 hours of overtime being duplicated on the employee’s timesheet.

During FY 2013-2014, overpayments to seven employees totaling \$10,203.15 were noted. The overpayments were the result of 174 duplicate hours on the employees’ timesheets

Recommendation:

The auditors recommend that timesheets are reviewed to ensure that no dates or hours have been duplicated. The district should investigate the feasibility of moving from the current manual overtime processing system to an electronic system to reduce calculation errors.

2. **The district failed to provide supporting documentation for overtime payments totaling \$56,619.00.**

The auditors were not provided supporting documentation for overtime expenditures (timesheets) in FY 2012-2013 for 10 individuals totaling \$50,316.00 and for four individuals totaling \$6,303.00 for FY 2013-2014.

Recommendation:

The auditors recommend that the district retain all overtime supporting documentation in accordance with current State of New Jersey records retention regulations.

3. **Hours worked were not calculated properly for one member of the Service Employees International Union – Local 617 during FY 2013-2014.**

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The auditors reviewed 16 pay periods for this employee and determined that the employee was overpaid by \$1,610.00. The required hours worked did not meet the 40 hours needed before payment of overtime. Sick, personal or vacation hours were inappropriately included in the calculation of hours worked.

Recommendation:

The auditors recommend that the district standardize work hours for each functional department to provide coverage as needed. Start and end times should be reflective of the number of hours needed to satisfy the standard work hours and the additional hours necessary to reach the 40 hours for overtime pay. Work hours should clearly indicate whether they are a.m. or p.m. The rate of pay should be based on the hours worked by each individual. Proper calculation of standard work hours and overtime hours should consider all hours worked and exclude non-work hours such as vacation, sick, personal and holiday time. All persons working in excess of 40 hours per work week should be paid overtime.

4. The district did not comply with its policy that overtime be pre-approved in writing.

District policy requires that "all overtime shall be pre-approved in writing or by issuance of a Building Use Permit signed by the Executive Director of Facilities Management or his designee" (Exhibit 2). Overtime is to be authorized by a properly executed "Overtime Request Form" (Exhibit 3). Auditors reviewed 195 timesheets for fiscal years 2013 and 2014, and only one executed Overtime Request Form was provided. Pre-authorization is an effective tool in controlling overtime costs.

Recommendation:

The auditors recommend that the district comply with existing policy and all overtime should be pre-authorized in writing. Emergency after-hours overtime should be authorized in writing the following business day. Authorization should be filed in a manner available to support overtime payments.

5. Overtime was not always paid within the contractually required time frame.

Two of the districts union contracts (Local 68 and SEIU Local 617) require that payment for overtime be made to employees within 30 days of working overtime. Local 32 requires that hours worked should be paid within 15 days from the date the pay period shall end.

The auditors noted the following payments that were not made within the contractually required time frame:

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- In FY 2012-2013, 36 out of 238 payments reviewed, 15 percent, were in violation of the required payment time frame.
- In FY 2013-2014, 85 out of 195 payments reviewed, 44 percent, were in violation of the required payment time frame.

Recommendation:

The auditors recommend that the district adhere to the contractual requirements and make payments in a timely manner.

6. Overtime reporting forms (timesheets), which document employee overtime hours, were not always approved for payment by the required supervisors.

Overtime timesheets (Exhibit 4) are required to have all of the data necessary for review and approval prior to payment to the employee including: dates; hours worked; location; and nature of work performed. These forms are also required to be signed by the preparer, location administrator, service department administrator and the department administrator.

During the course of the review, auditors noted the following signatures were missing from the timesheets submitted for review:

- Location Administrator Signature was missing from 115 out 238, 48 percent, of timesheets reviewed for FY 2012-2013 and from 97 out of 195, 50 percent, of timesheets reviewed for FY 2013-2014.
- Service Department Administrator Signature was missing from 67 out 238, 28 percent, of timesheets reviewed for FY 2012-2013 and from 25 out of 195, 13 percent, of timesheets reviewed for FY 2013-2014.

Recommendation:

The auditors recommend that the district stipulate the required signatures needed in its policies and procedures in order to process any overtime request for payment and that no payments are made without proper authorization.

7. Overtime was not calculated correctly for Local 32 employees.

The district agreed to a Memorandum of Agreement with Local 32 effective July 1, 2008. Part of the agreement was that overtime for union staff would be paid after 40 hours worked rather than the previous contract requirement that it be paid after 35 hours worked. Work on weekends and holidays would continue to be paid at time and one half (1-1/2). Auditors tested overtime payments to three Local 32 employees in FY 2012/2013 and three employees in FY 2013-2014. In all cases overtime was paid for all hours after 35

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hours worked rather than 40 hours. It appears that overtime is being calculated incorrectly for all Local 32 staff resulting in significant overpayments.

Recommendation:

The district must follow the terms of the Memorandum of Agreement and calculate overtime for Local 32 employees based on hours worked in excess of 40 per week.

AUDITORS' OBSERVATIONS:

- The district currently has no formal monitoring of overtime expenditures during the course of the year.
- Auditors were often unable to reconcile overtime hours submitted and paid with hours worked per the district's KRONOS time and attendance system.
- There is no formal policy on overtime payment procedures in the district's current policy manual.
- Many of the district's contracts require the district to pay overtime at a much higher rate than is required by the Fair Labor Standards Act (FLSA). For example, some employees are paid time and one-half (1-1/2) for any hours worked beyond the regular work day rather than in excess of 40 hours in a week as required by FLSA. Others are paid time and one-half (1-1/2) for hours worked beyond 35 hours in a week.

Recommended Actions:

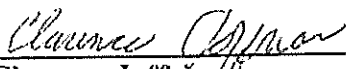
- Department heads should be provided with overtime budgets at the beginning of each fiscal year. Detailed accounting of overtime expenditures by employee should be provided to department heads no less than quarterly for review.
- Employees working overtime should be required to sign in and out using the KRONOS system. Overtime hours should be reconciled to KRONOS prior to payment.
- The district should develop and adopt a district wide policy on overtime payments, including requirements for pre-authorization, form, method and procedure to submit overtime hours, required signatures/approvals, and time frame for submission.
- The district should consider trying to define overtime more in line with the requirements of FLSA during future contract negotiations.

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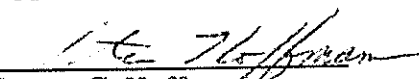
Auditors:

**Patricia Sewak
Temple Garretson**

Submitted by:


Clarence Joffion
**Clarence Joffion
Supervising Auditor**

Approved by:


Steven C. Hoffmann
**Steven C. Hoffmann
Coordinating Auditor**

Newark Internal Audit Unit
Lead Sheet by Names

Overtime 12/13 FY

Top 10

Employee ID	Description	OT Total	Annual Salary per PeopleSoft for 12/13	Comments	% of their salary - OT earnings
16979	Custodian	\$48,365.27	\$63,093.00	retirement 12/1/13	76.66%
12428	Maintenance Supervisor	\$57,485.50	\$86,399.00		66.53%
14046	Senior Custodian	\$37,155.22	\$57,839.00		64.24%
12378	Electrician	\$45,445.35	\$75,711.00		60.02%
13806	Sup Trades	\$50,234.07	\$92,042.00		54.58%
18146	Steamfitter Foreman	\$43,355.84	\$81,432.00		53.24%
14294	Mason Plasterer	\$37,827.70	\$71,137.00		53.18%
17548	Sup Trades Nite	\$47,346.91	\$89,723.00		52.77%
11734	Carpenter Foreman	\$42,556.93	\$81,651.00		52.12%
13357	Carpenter	\$37,834.18	\$80,712.00		46.88%
TOTAL OVERTIME FOR TOP 10		\$447,606.97			
TOTAL OVERTIME NOT UNACCOUNTED		\$50,316.35		timesheet bundles not received	
% UNACCOUNTED FOR		11.24%			

Overtime 13/14 FY

Top 10

Employee ID	Description	Total OT earned	Annual Salary per PeopleSoft for 13/14	Comments	% of their salary - OT earnings
16269	School Security Guard	\$33,631.90	\$45,326.00		74.20%
14046	Senior Custodian	\$39,375.39	\$57,839.00		68.08%
16365	Supervisor of Custodians	\$46,887.07	\$74,963.00		62.55%
15013	Senior Custodian	\$37,244.79	\$60,439.00		61.62%
12428	Maintenance Supervisor	\$45,764.80	\$86,399.00		52.97%
17548	Sup Trades	\$45,076.14	\$89,723.00	as of 8/18/14, pay \$71612	50.24%
18648	Senior Custodian	\$31,968.38	\$64,293.00		49.72%
16767	Senior Custodian	\$32,682.07	\$66,293.00		49.30%
13750	Supervisor of Custodians	\$34,666.41	\$74,963.00		46.24%
18146	Steamfitter Foreman	\$36,510.17	\$81,432.00		44.84%
TOTAL OVERTIME FOR TOP 10		\$383,807.12			
TOTAL OVERTIME NOT UNACCOUNTED		\$6,303.17		timesheet bundles not received	
% UNACCOUNTED FOR		1.64%			



The Newark Public Schools
Facilities Management
2 Cedar Street
Newark, New Jersey 07102-3091
Phone: 973-733-7340
Fax: 973-733-6852

Cami Anderson
State District Superintendent

Christopher D. Cerf
Commissioner of Education

Steve Morlino, CFM, CEFM, LEED^{AP}
Executive Director

Valerie V. Wilson
School Business Administrator

Facilities Management Circular No: 05072013

Note: All circulars shall be kept in a permanent file.

To: All Facilities Management Personnel

Date: May 21, 2013 revised

Subject: Overtime Restriction Protocols

In order to ensure the Facilities Management Department is delivering peak customer service, operational efficiency and departmental effectiveness per our goals, it is critical to our mission to ensure all personnel are utilized efficiently. This circular will address overtime in addition to Facilities Management Circular No: 1-27-09, which remains in effect.

All overtime SHALL be pre-approved in advance in writing or by issuance of a Building Use Permit signed by the Executive Director of Facilities Management or his designee. **Exceptions are pre-authorized building checks, heat checks and/or snow emergencies etc. covered by the bargaining unit agreement. In addition, emergency call out by security or other authorized supervisory personnel for fire alarms, broken pipes, electrical failures, fires or similar emergent situations occurring beyond normal work hours.** Emergency overtime after-hours is to be authorized the following business day. Your immediate supervisor has the proper forms and is aware of the procedure and process to pre-approve overtime. **There are to be no exceptions.**

- You must work your regularly scheduled hours & shift in order to be eligible to work overtime on any particular day. For example, you must work your full Friday shift in order to work overtime on the following Saturday & Sunday.
- If you are out sick or leave early or work a partial regular shift for any reason you are not eligible to work overtime within that 24 hour period.

Facilities Management Supervisory Personnel **SHALL** enforce these rules

These rules become effective immediately and remain in force until rescinded in writing by the Executive Director.

Cc: Valerie Wilson, Local 68, 617, 32, Building Trades, Labor Relations

EXHIBIT 2



THE NEWARK PUBLIC SCHOOLS

Employee Services
2 Cedar Street
Newark, New Jersey 07102-3091
Phone: 973-733-6950
Fax: 973-733-7753

Cami Anderson
State District Superintendent

Christopher D. Cerf
Commissioner of Education

Vanessa Rodriguez
Chief Talent Officer

Overtime Request Form

NAME _____ ID# _____

DATE _____ PAY PERIOD INVOLVED _____

PLEASE COMPLETE

DATE _____ HOURS _____ to _____

DATE _____ HOURS _____ to _____

DATE _____ HOURS _____ to _____

DATE _____ HOURS _____ to _____

DATE _____ HOURS _____ to _____

TOTAL HOURS _____

JUSTIFICATION _____

ESTIMATED COST: \$ _____

SUBMITTED BY: SUPERVISOR

Print Name: _____

Signature: _____

Check One: Approved Denied

DEPARTMENT HEAD _____

DATE _____

Overtime must be **PRE-APPROVED PRIOR** to working and must be put in writing, by your supervisor and **APPROVED** by your Department Head.

LOCATION: _____ LOG CODE: _____

TYPE OF SERVICE: _____

EMPLOYEE CODE: _____

DATE: _____

DEPARTMENT: _____

Salaried SUBSTITUTE
(Check One)

OVERTIME REPORT # _____

PAGE 1 OF 1

1 3 (TIME & HALF RATE)

LAST 4 DIGITS OF SOCIAL SECURITY #	ID NO.	EMPLOYEE NAME	PURPOSE	DATE	HOURS		MINUS LUNCH	MINUS TARDY	HOURS DUE	FUND	SITE FUND	PROGRAM	FUNCTION	ACCOUNT	DEPT ID	STRATEGY	REGION	PAYROLL USE ONLY	GRAND TOTAL
					FROM	TO													
XXX-XX-1234																			
<p>NOTES:</p> <p>Official Security # has to be entered without the dashes e. 123456789 will change automatically to 123-45-6789.)</p> <p>Hours could be entered with AM/PM or Military Time. (i.e. Employee worked from 8:30AM to 4:30PM. Enter 8:30[SPACE]AM and 4:30[SPACE]PM or 8:30 and 16:30 for Military Time)</p>																			

REQUIRED SIGNATURE APPROVAL

DEPARTMENT ADMINISTRATOR _____ DATE _____

PREPARED BY: _____ DATE: _____

LOCATION ADMIN: _____ DATE: _____

SPACE DEPT. ADMIN: _____ DATE: _____

PERIOD COVERED FROM _____ TO _____