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EXPLANATORY BULLETIN ON THE INCLUSION OF TEACHERS’ OVERLOAD PAY IN 13TH MONTH PAY DETERMINATION

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This Bulletin is issued in response to the numerous queries received by this Department in whether the payment for overload teaching hours should be considered part of the teacher's basic pay for purpose of computing their 13th month pay.

1
Basis of the 13th month pay computation

The revised Implementing Guidelines of the 13th Month Pay Law (P.D. 851 as amended) provides that an employee shall be entitled to not less than 1/12 of the total basic salary earned within a calendar year. For the purpose of computing such entitlement the basic wage of an employee shall include:

> "xxxx all remunerations or earnings paid by his employer for services rendered but do not include allowances or monetary benefits which are not considered or integrated as part of the regular or basic salary, such as the cash equivalent of unused vacation and sick leave credits, overtime, premium, night differential and holiday pay, and cost-of-living allowances. However, these salary-related benefits should be included as part of the basic salary in the computation of the 13th month pay if by individual or collective agreement, company practice or policy, the same are treated as part of the basic salary of the employees."

Basic wage is defined by the Implementing Rules of RA 6727 as follows:

Basic Wage means all remuneration or earnings paid by an employer to a worker for services rendered on normal working days and hours but does not include cost of living allowances, profit sharing payments, premium payments, 13th month pay or other monetary benefits which are not considered as part of or integrated into the regular salary of the workers . . . ".

The foregoing definition was based on Article 83 of the Labor Code which provides that "the normal hours of work of any employee shall not exceed eight (8) hours a day." This means that the basic salary of an employee for the purpose of computing the 13th month pay shall include all remunerations or earnings paid by the employer for services rendered during normal working hours.

2
Overload work/pay

Overload on the other hand means "the load in excess of the normal load of private school teachers as prescribed by the Department of Education, Culture and Sports (DECS) or the policies rules and standard of particular private schools." In recognition of the peculiarities of the teaching profession, existing DECS and School Policies and Regulations for different levels of instructions prescribe a regular teaching load, the total actual teaching or classroom hours of which a teacher can generally perform in less than eight (8) hours per working day. This is because teaching may also require the teacher to do additional work such as handling an advisory class, preparation of lesson plans and teaching aid, evaluation of students and other related activities. Where, however, a

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teacher is engaged to undertake actual additional teaching work after completing his/her regular teaching load, such additional work is generally referred to as overload. In short, work in excess of the regular teaching load is overload work. Regular teaching load and overload work, if any may constitute a teachers' working day.

Where a teacher is required to perform such overload within the eight (8) hours normal working day, such overload compensation shall be considered part of the basic pay for the purpose of computing the teacher's 13th month pay. "Overload work" is sometimes misunderstood as synonymous to "overtime work" as this term is used and understood in the Labor Code. These two terms are not the same because overtime work is work rendered in excess hours of the normal working hours of eight in a day (Art. 87, Labor Code). Considering that overload work may be performed either within or outside eight hours in a day, overload work may or may not be overtime work.

3 Concluding Statement

In the light of the foregoing discussions, it is the position of this Department that all basic salary/wage representing payments earned for actual work performed during or within the eight hours in a day, including payments for overload work within eight hours, form part of basic wage and therefore are to be included in the computation of 13th month pay mandated by PD 851, as amended.

Adopted: 3 Dec. 1993

(Sgd.) CRESENCIANO B. TRAJANO
Acting Secretary

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