§ 136. Compensation of teachers in state institutions. 1. The term "teacher", for purposes of this section, means any employee of a state facility or institution in the office of children and family services in the executive department and in the departments of corrections and community supervision, health, mental hygiene and social services holding a position the principal duty of which is the teaching or instruction of patients or incarcerated individuals, or the direct supervision of such teaching or instruction, including an institution education director, as determined by the department of civil service subject to approval of the director of the budget.

2. The annual salary of a teacher shall be determined in accordance with the provisions of this article. Commencing July first, two thousand, the total salary which a teacher would otherwise be entitled to receive for any year beginning on July first shall be paid over either (a) a period of consecutive months beginning with the first day of the facility's or institution's academic year, as determined by the employer, and ending with the last day of the facility's or institution's academic year, as determined by the employer or, in the case of a teacher in the department of corrections and community supervision, over a period of ten consecutive months designated by the commissioner of corrections and community supervision or (b) a period of twelve months from September first to August thirty-first. Any such teacher who is required to work in his position or in any other position allocated to a salary grade in section one hundred thirty of this chapter in the period of time that is outside the facility's or institution's academic year, as determined by the employer or, in the case of a teacher in the department of corrections and community supervision in the two month period outside of the ten consecutive months designated by the commissioner of corrections and community supervision shall receive additional compensation therefor. If such work is performed in his regular position or title or in a position the title of which is allocated to the same salary grade as his regular position, he shall receive additional compensation therefor at the hourly rate of pay received by him in his regular position. If such work is performed in a position having a title allocated to a lower salary grade than the salary grade to which the title of his regular position is allocated, he

shall receive additional compensation therefor at the hourly rate of pay of the job rate of the grade of the position in which such work is performed, or at such job rate plus the additional increment or increments of such grade if he would be entitled to such additional increment or increments were he then appointed to such position; provided, however, that when such hourly rate exceeds the hourly rate of pay received by him in his regular position, his additional compensation shall be at the hourly rate of pay of his regular position. When such work is performed in a position allocated to a salary grade higher than the salary grade to which his regular position is allocated, he shall receive additional compensation therefor at the hourly rate of pay of the rate of compensation to which he would be entitled if he were permanently promoted to the position in which such work is performed.

3. Teachers shall not be subject to the rules governing sick leaves, vacations, time allowances and other conditions of employment in the classified service of the state established pursuant to paragraph (c) of subdivision one of section six of the civil service law. The director of the office of children and family services, the commissioner of corrections and community supervision, the commissioner of health, the commissioner of mental health and the commissioner of social services, respectively, shall adopt regulations for sick leaves, vacations, time allowances and other conditions of employment which shall be applicable to teachers under its or his jurisdiction and, notwithstanding any other provision of law, such rules may provide for cash payment of the monetary value of accumulated and unused vacation and time allowances granted in lieu of overtime compensation standing to the credit of an employee at the time of his separation from service or his entrance into the armed forces of the United States for active duty (other than for training) as defined in title ten of the United States code, whether or not such entrance constitutes a separation from service, and for the payment of the monetary value of his accumulated and unused time allowances granted in lieu of overtime compensation standing to the credit of an employee at the time of his appointment, promotion or transfer to another department or agency of the state. Such rules shall be subject to approval of the state civil service commission.

4. The provisions of this section shall be controlling, notwithstanding any inconsistent provisions of this chapter or of the state finance law or of any other law.