

COMPENSATORY TIME OFF LAW

The following exhibit summarizes key portions of the Fair Labor Standards Act pertaining to compensatory time off.

Maximum Allowable

If overtime hours are compensated with time off, compensatory time shall be provided at a rate of one and one-half hours for each hour in excess of 40 hours worked in a workweek. Compensatory time may be accumulated to a maximum of 240 hours¹. Any employee who has accrued 240 hours of compensatory time off or more shall be paid overtime compensation for additional overtime hours of work.

Use of Compensatory Time

Employees who have accrued compensatory time off may request the use of compensatory time and shall be permitted to use such time within a reasonable period after making the request if the use of compensatory time does not unduly disrupt the operations of the employee's office or department. A reasonable period might be one or two days—normally whatever time would be required to secure a replacement or to shift workloads so as to allow the employee to be absent. The burden of proof is with the employer if a dispute should arise as to whether granting the request would unduly disrupt the operations of the office or department.

The District may enter into an agreement with the employee that all compensatory time off within the maximum allowed will be taken at a specific time (e.g., the custodian who normally works more than 40 hours during the school year and is not needed full time in the summer). Such an arrangement would allow the District to pay the employee a fixed rate for the year on a monthly basis and adjust the hours to allow time off in the summer for the overtime hours worked during the school year. However, a voluntary agreement signed by the employee is required to do this.

Separation

Upon separation of employment, employees who have accrued compensatory time shall be paid for unused compensatory time at a rate of compensation not less than:

1. The average regular rate received by the employee during the last three years of the individual's employment, or
2. The final regular rate received by the employee, whichever is higher.

End of McClusky School District #19 Exhibit DCB-E

¹ A 480-hour cap is allowed for employees whose primary job duties involve public safety, emergency response, or a seasonal activity.