

ARTICLE 48

Compensatory Time

Section 1. FLSA nonexempt employees shall continue to be paid for unused compensatory time in accordance with all applicable FLSA laws, rules, regulations and this Agreement.

Section 2. FLSA exempt employees shall be paid for unused compensatory time in accordance with this Agreement and FAA directives.

Section 3. Compensatory time must be used within twenty-six (26) pay periods. After twenty-six (26) pay periods the compensatory time will expire, be removed from the employee's balance of compensatory time and treated as follows, depending on the employee's FLSA status.

- a. Beginning May 14, 2007, non-exempt employees who fail to use compensatory time within twenty-six (26) pay periods of when earned shall be paid for the expired compensatory time.
- b. FLSA exempt employees who fail to use compensatory time within twenty-six (26) pay periods of when earned shall forfeit the compensatory time unless the failure to take the compensatory time off is due to an exigency of the service beyond the employee's control. If an exigency exists, as defined in this Agreement, the employee shall be paid for the expired compensatory time at the rate which it was earned.

Section 4. Compensatory time earned prior to March 16, 2008, by exempt employees shall be grandfathered indefinitely. With respect to the grandfathered compensatory time, exempt employees shall be compensated for any balance that remains upon retirement, transfer to another agency or departure from federal service.

Section 5. Compensatory time used shall be subtracted from the compensatory time set to expire first.

Section 6. An employee, whether exempt or nonexempt, shall be paid for unused compensatory time under the following circumstances:

- a. the employee is separated or placed in a leave without pay status to perform military service as defined in 38 U.S.C. 4303 and applicable regulations.

- b. the employee is separated or placed in a leave without pay status because of an on-the-job injury with entitlement to injury compensation under 5 U.S.C. Chapter 81.

Section 7. For purposes of administering compensatory time a leave exigency is defined as:

- a. when an employee has requested and been approved to use compensatory time but the manager later withdraws his/her approval and no other leave dates are available to the employee prior to the expiration of the twenty-six (26) pay periods; or
- b. when an employee has requested at least twice to use any compensatory time due to expire within six (6) months, but is denied approval and the manager is unable to offer the employee another date to use the compensatory time prior to its expiration.

Section 8. An exempt employee can accumulate a maximum of one hundred-sixty (160) hours of compensatory time for carryover into the next pay period. Overtime work that is officially ordered and approved in excess of the one hundred-sixty (160) hours maximum accumulation must be paid as overtime and cannot be approved as compensatory time.

Section 9. ~~Subsequent to the effective date of this Agreement, Employees designated as FLSA 'non-exempt employees-exempt' shall not be eligible to earn compensatory time, in accordance with all applicable FLSA laws, rules, regulations, and this Agreement.~~

Section 10. A bargaining unit employee may use compensatory time in lieu of sick leave requested due to the incapacitation of the employee. Compensatory time may not be substituted for sick leave taken under family friendly leave policies.

~~**Section 11.** Should the application of the Fair Labor Standards Act requirements for employees covered by this Agreement be changed through issuance of regulations, a final adjudicated decision, or an amendment to the applicable laws, the Parties shall meet within thirty (30) days of the change for the purpose of bargaining the availability of programs based upon the new and/or revised interpretation of regulations and/or law.~~