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***Informational Sheet: Michigan Minimum Wage Law
Compensatory Time***

The Michigan Minimum Wage Law of 1964 allows the accrual and use of compensatory time in lieu of payment of overtime wages under certain conditions. The statutory provisions on compensatory time and compensatory time off can be found at MCL 408.384a(8) of the Michigan Compiled Laws. The guidelines below summarize some of the compensatory time and compensatory time off provisions. Anyone interested in the use of compensatory time should consult the statute for the complete text. This guide is intended for employees not covered by a collective bargaining agreement.

An employee, other than an employee covered by a collective bargaining agreement, may elect to receive compensatory time and compensatory time off in lieu of overtime compensation provided all of the following occur:

- 1) The employee and employer are covered by the Michigan Minimum Wage Law of 1964. Michigan's minimum wage law covers employers, **other than an employer covered by the federal minimum wage law**, employing 2 or more workers that are 16 years of age or older. Employees that make or work on goods produced for interstate commerce are covered by federal law. The following employers are covered by the federal minimum wage law:

- a business with gross annual revenues exceeding \$500,000 per year
- a hospital or health care facility
- a pre-school, elementary or secondary school or a college
- an agricultural employer that employs 500 man days@ of agricultural labor
- federal, state and local governments

IF THE EMPLOYER AND EMPLOYEE ARE NOT COVERED BY MICHIGAN LAW, COMPENSATORY PROVISIONS DO NOT APPLY.

- 2) The employer allows the employee electing compensatory time off 10 paid days of leave per year, in addition to the compensatory time.

IF THE EMPLOYER DOES NOT ALLOW THE EMPLOYEE 10 DAYS OFF WITH PAY EACH YEAR, COMPENSATORY TIME PROVISIONS DO NOT APPLY.

- 3) The employee voluntarily consents in writing to receive compensatory time and compensatory time off in lieu of overtime wages prior to working the overtime. An employee cannot be coerced, intimidated, or required as a condition of employment to accept compensatory time or compensatory time off.

IF AN EMPLOYEE DOES NOT VOLUNTARILY AGREE IN WRITING TO ACCEPT COMPENSATORY TIME IN LIEU OF OVERTIME WAGES BEFORE THE OVERTIME IS WORKED, COMPENSATORY TIME PROVISIONS DO NOT APPLY.



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- 4) One and one half (1.5) hours of compensatory time and compensatory time off is provided for each hour of overtime worked.
COMPENSATORY TIME MUST BE CREDITED AND PAID AT ONE AND ONE HALF (1.5) HOURS FOR EACH HOUR OF OVERTIME WORKED.
- 5) Accrued compensatory time may not exceed 240 hours.
IF THE EMPLOYEE'S ACCRUED BALANCE OF COMPENSATORY TIME EXCEEDS 240 HOURS, THE EMPLOYEE MUST BE PAID OVERTIME WAGES.

The compensatory time and compensatory time off provisions are intended to allow employees to trade overtime wages for time off with pay. An employer that does not intend to allow employees to schedule time off with pay, at the employee's discretion, should not enter into a compensatory time agreement with employees.

The following apply to the use of compensatory time:

- The employer must receive and keep on file the written consent of the employee requesting compensatory time before the compensatory time is earned.
- The employer must provide the employee a statement of compensatory time earned and compensatory time paid in the pay period the compensatory time is earned or paid.
- The payroll record maintained by the employer must show compensatory time credited in the period it is earned.
- An employer must pay an employee within 30 days of a request for compensatory time. The request need not be in writing.
- Compensatory time must be paid at a rate that is not less than the rate it was earned.
- An employee must be permitted to use compensatory time as requested unless use would be unduly disruptive.
- Accrued compensatory time must be paid to an employee leaving employment.
- An employer must give employees 60 days notice of the cancellation of a compensatory time or compensatory time off plan.