

Guidance for Hours Worked

Based on the Fair Labor Standards Act (FLSA)

The following is guidance to provide general information concerning what constitutes compensable time under the FLSA for non-exempt employees. The Act requires that these employees must receive at least the minimum wage and may not work more than 40 hours in a week without receiving at least one and one-half times their regular rates of pay for the overtime hours.

The workweek ordinarily includes all time during which an employee is necessarily required to be on the employer's premises, on duty or at a prescribed work place. "Workday", in general, means the period between the time on any particular day when such employee commences his/her "principal activity" and the time on that day at which he/she ceases such principal activity or activities. The workday may therefore be longer than the employee's scheduled shift.

Waiting Time: Waiting time may or may not require compensation, depending on the particular circumstances. If the waiting is necessitated by the job duties (engaged to wait), e.g., waiting for papers to be signed, the time must be compensated, because the task was material to the employment. If on the other hand, the employee is told they should go off the clock and return later (waiting to be engaged), e.g., to check animals, then the time would not be compensated. However, if the supervisor tells the employee that he/she must remain on the premises until the duties are completed, then the waiting time must be compensated.

Examples:

An employee who reads a book while awaiting assignments at work is working during the period of inactivity. This employee has been "engaged to wait" and the time would be considered work time and compensated.

An employee who is released from work but is told to return at a specific time has been relieved of his/her duty. The off duty waiting time is a period during which the employee is "waiting to be engaged" and is not work hours and should not be compensated.

On-Call Time: An employee who is required to remain on call on the employer's premises is working while "on call." An employee who is required to remain on call at home, or who is allowed to leave a message where he/she can be reached, is not working (in most cases) while on call. Employer imposed additional constraints on the employee's freedom may require this time to be paid.

Lectures, Meetings and Training Programs: Attendance at lectures, meetings, training programs and similar activities generally requires compensation, if the experience was required by the employee's duties. It does not need to be counted as working time (and compensated) only if four criteria are met, namely: 1) it is outside normal hours, 2) it is voluntary, 3) not job related, and 4) no other work is concurrently performed.

Travel Time: The principles which apply in determining whether time spent in travel is compensable time depends upon the kind of travel involved.

- **Home to Work Travel:** An employee who travels from home before the regular workday and returns to his/her home at the end of the workday is engaged in ordinary home to work travel. This is not work time and is not compensated.
- **Home to Work on a Special One Day Assignment in Another City:** An employee who regularly works at a fixed location in one city is given a special one day assignment in another city and returns home the same day. The time spent in traveling to and returning from the other city is work time, except that the employer may deduct/not count that time the employee would normally spend commuting to the regular work site. The expectation is for the employee to communicate with the supervisor so the time can be recorded accurately.
- **Travel That is All in a Day's Work:** Time spent by an employee in travel that is required to carry out his/her work duties, such as travel from job site to job site during the workday, is work time and must be counted as hours worked.
- **Travel Away from Home Community:** Travel that keeps an employee away from home overnight is travel away from home. Travel away from home is clearly work time when it cuts across the employee's workday. The time is not only hours worked on regular working days during normal working hours but also during corresponding hours on nonworking days. For example, if an employee's normal workdays are Monday – Friday and he or she travels away from home to a work related event that lasts for eight (8) hours on Friday and eight (8) hours on Saturday, the employee should have 16-hours of work time on those days. Time spent in travel away from home outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile will not be considered as work time.
- **Sleeping Time and Certain Other Activities:** An employee who is required to be on duty for less than 24 hours is working even though he/she is permitted to sleep or engage in other personal activities when not busy. An employee required to be on duty for 24 hours or more may agree with the employer to exclude from hours worked bona fide regularly scheduled sleeping periods of not more than 8 hours, provided adequate sleeping facilities are furnished by the employer and the employee can usually enjoy an uninterrupted night's sleep. No reduction is permitted unless at least 5 hours of sleep is taken.

Situations that require work outside of the normal work day will vary. For that reason, it is recommended that each situation be reviewed with your departmental HR representative and/or your HR Consultant before finalizing.