

# COMPENSABLE TIME GUIDELINES FOR TRAVEL AND TRAINING

## Determining Compensable Time for Nonexempt and Professional Nonexempt Employees

The Fair Labor Standards Act (FLSA) is a federal law that establishes minimum wage, overtime pay eligibility, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in federal, state, and local governments. Under FLSA, nonexempt employees must be paid for all hours the employee is required to be on duty, or on the employer's premises, or at a prescribed workplace. Work is defined as all efforts that are suffered, endured, permitted, or required by the employer, i.e., all time spent in physical or mental exertion that is controlled or required by the employer and pursued necessarily and primarily for the benefit of the employer. Under certain conditions, time spent traveling may be considered time worked.

This document supplements the Compensable Time Policy and provides guidance on what time spent traveling is considered compensable (i.e., the time is counted as hours worked) as well as time spent in conferences, training programs, and lectures.

- I. **CONFERENCES, TRAINING PROGRAMS, LECTURES, AND MEETINGS** – Time spent in conferences, training programs, lectures, and meetings generally should be compensated. If all of the following conditions are met, then the activity need not be counted as working time.
  - A. Attendance is outside of the employees regular working hours
  - B. Attendance is voluntary
  - C. The conference, course, lecture, or meeting is not directly related to the employee’s job, and
  - D. The employee does not perform any productive work during such attendance
  
- II. **TRAVEL TIME** – The principles that apply in determining whether time spent in travel is compensable time depends upon the kind of travel involved.
  - A. **HOME TO WORK TRAVEL** – In general, the FLSA does not consider ordinary commuting as hours worked. An employee who travels from home before their regular workday and returns to their home at the end of the workday, also referred to as commuting, is engaged in ordinary home to work travel, which is a normal incident of employment. This is true whether the employee works at a fixed location or at different job sites. Commuting includes the time spent walking from the parking lot to the worksite. Ordinary commute time is generally not compensable, however, if, while commuting, the employee conducts work-related activities, such as phone calls or running errands (i.e. picking up supplies, materials, equipment, etc.), the time is considered compensable.
  
  - B. **TRAVEL THAT IS ALL IN A DAY’S WORK**
    - i. **Compensable Time**
      - Time spent by an employee in travel as part of the employer’s principal activity must be counted as hours worked. Example: the employee travels from job site to job site during the workday.
      - If the employee is required to report to a meeting place to pick up materials, equipment, or other employees, or to receive instructions before traveling to the work site, time is compensable once the employee reaches the meeting place.

## **COMPENSABLE TIME GUIDELINES FOR TRAVEL AND TRAINING**

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- Time spent driving or riding as a passenger from job site to job site is considered hours worked.
- ii. Non-Compensable Time
- If the employee makes a stop for personal reasons that exceeds normal break time at a store or the home office for the employee's convenience, the time traveling from the office to the site is not compensable. Example: the employee leaves home for the work site but stops at a shop for the employee's convenience.
- C. HOME TO WORK ON A SPECIAL ONE-DAY ASSIGNMENT IN ANOTHER CITY – One-day assignments are designated for employee who regularly work at a fixed location in one city and are given a special one-day assignment in another city, and returning home the same day.
- i. Compensable Time
- If the employee is assigned to work in another city for one day and the travel is performed for the employer's benefit and at its request, it is part of the principal activity of the employer and, therefore, is compensable. This is true even if the employee is traveling by common carrier because this is a special assignment and is not ordinary home to work travel.
- ii. Non-Compensable Time
- Time spent in the normal home to work commute may be deducted when traveling to the common carrier.
- D. TRAVEL AWAY FROM HOME COMMUNITY (OVERNIGHT TRAVEL) - Overnight travel or travel away from home is designated as "travel away from home community" under the FLSA.
- i. Compensable Time
- Travel away from home community is paid work time when it occurs during the employee's normal working hours on regular work days as well as during the corresponding hours on the weekends and other nonworking days.
  - The driver of the vehicle must be compensated as driving is considered work time. Example: Employee drives to the airport to attend a seminar and has two coworkers as passengers with him. If the trip is made before or after normal work hours, only the driver receives compensation as only the driver is working. If the trip is made during normal work hours, all three employees are compensated because travel during normal work time is compensable.
- ii. Non-Compensable Time
- Time spent traveling away from home community outside of regular working hours as a passenger in an automobile, on a plane, train, boat, bus or other common carrier is not counted as hours worked as long as the employee is not performing work as a passenger.
  - Time spent waiting at the airport outside of normal hours does not count as hours worked.
  - Travel between home and work or between hotel and worksite is considered normal commuting time and does not count as hours worked.

## **COMPENSABLE TIME GUIDELINES FOR TRAVEL AND TRAINING**

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#### iii. Time Zone Changes

- When an employee travels between two or more time zones, the time zone associated with the point of departure should be used to determine whether travel falls within normal work hours.
- If the time zone changes during the travel day, the hours should be calculated on the “actual” hours when calculating compensable time on travel days. A department may wish to use Central Standard Time (CST) for travel days to assist in determining work hours. Local time should be used for all other days of the travel. Example: Employee rode to the airport on a non-workday but within work hours and left at 9:00 a.m. CST and arrived at the hotel Noon Pacific Standard Time (PST) (which is 2:00 CST). Actual hours of travel are 5 hours (9 am to 2:00 CST). On the following day the return flight for the employee left at 10 a.m. PST (which is 8:00 a.m. CST) and returned home at 1:00 p.m. CST (11:00 PST). Actual hours of travel are 5 hours.

#### E. ADDITIONAL OVERNIGHT TRAVEL CONSIDERATIONS

- i. Time spent at a hotel with freedom to use time for the employee’s own purposes is not compensable.
- ii. Upon arrival at destination, non-work activity such as eating, sleeping, resting, or entertainment are not considered compensable.

F. PRIVATE AUTOMOBILE USE DURING TRAVEL AWAY – If an employee is offered public transportation but requests permission to drive their car instead, the employer may count as hours worked either the time spent driving the car or the time they would have had to count as hours worked during working hours if the employee had used the public conveyance. Example – If an employee drives a car as a matter of personal preference when an authorized flight or other travel mode is available and the travel by car would exceed that of the authorized mode, only the estimated travel time associated with the authorized mode will be counted as hours worked.

G. WORK PERFORMED WHILE TRAVELING – Any work that an employee is required to perform while traveling must be counted as hours worked. Example – An employee who is required to ride in a mode of transportation as an assistant or helper, is working while riding, except during bona fide meal periods or when they are permitted to sleep.

H. OUT-OF-STATE TRAVEL – Travel pay falls under federal, state, and municipal wage and hour laws. Some states and municipalities have travel laws that may have additional travel time pay requirements. Contact your HR Partner for additional information.