

FAIR LABOR STANDARDS ACT

Travel: Determining Compensable Time for Non-Exempt Employees

Under the Fair Labor Standards Act (FLSA) a non-exempt employee must be paid for all hours the employee is “suffered or permitted to work.” This document addresses under what circumstances time spent traveling is considered compensable (i.e., the time is counted as hours worked).

Travel Category	Compensable	Non-Compensable
Commuting	<ul style="list-style-type: none"> Talking on a phone, running work related errands (e.g., picking up supplies) while traveling from home to work or vice versa is considered compensable if it is work related. 	<ul style="list-style-type: none"> Ordinary travel from home to work is not considered hours worked.
Travel During the Work Day	<ul style="list-style-type: none"> Travel during the work day as part of the employer’s principal activity counts as hours worked. (e.g., travel from job site to job site). 	
Same Day Travel Out of Town	<ul style="list-style-type: none"> Time spent traveling to and returning from a one-day required assignment in another city or town counts as hours worked, regardless of whether the travel cuts across the normal workday. Time spent at required conference, meeting, etc. counts as hours worked. 	<ul style="list-style-type: none"> Normal commuting time will be subtracted. Time not worked even if it cuts across the employee’s regular workday (e.g., employee goes sightseeing instead of attending a conference session, the conference sessions are only from 9 am to 3 pm, etc). Meal periods and social activities where attendance is not required and work is not performed are not considered hours worked.
Overnight Travel	<ul style="list-style-type: none"> Any portion of authorized travel that occurs within an employee’s normal workday counts as hours worked. Travel on non work days (like weekends) also counts as hours worked if it cuts across the employee’s normal workday. Driving a vehicle, regardless of whether the travel takes place within or outside normal work hours, counts as hours worked. In other words, the act of driving is considered manual labor activity which must be counted as hours worked if it is for the benefit of the employer. If an employee is required to attend meals, social events, etc., that time is counted as hours worked. Time spent waiting at the airport counts as hours worked if it cuts across normal work hours. Any work while traveling, which an employee is required to perform while traveling, is counted as hours worked (e.g., answering e-mails, taking business related phone calls). If an employee is required to ride as an assistant or helper in an automobile, the travel time counts as hours worked. 	<ul style="list-style-type: none"> Regular meal periods do not count as hours worked. Riding as a passenger outside of normal work hours, via airplane, train, boat, bus or automobile does not count as hours worked. In other words, the act of riding as a passenger is not considered work. Time spent sleeping does not count as hours worked. Time spent waiting at the airport <u>outside</u> of normal work 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.

Example 1 – Same Day Travel

A non-exempt employee goes out of town to attend a one-day seminar. The normal work hours are 8:00 a.m. to 5:00 p.m. The employee normally commutes from home to the office which takes 30 minutes. The employee leaves his/her home at 7:00 am and the seminar begins at 9:00 am. The employee has a one-hour lunch break in which he or she is completely relieved of work duties. The seminar continues from 1:00 pm and ends at 5:00 pm, then the employee returns home at 7:00 pm. The employee should report a total of **10 hours worked** on the day the travel occurred (11 hours of compensable time, but deduct the normal commute time of one hour because it is same-day travel).

Compensable Time	Non-Compensable Time
All hours of travel and all hours worked: <ul style="list-style-type: none"> 7 am to 9 am (2 hrs travel time) 9 am to 12 pm and 1 pm to 5 pm (7 hrs worked) 5 pm to 7 pm (2 hrs travel time) 	<ul style="list-style-type: none"> The 30 minutes for the normal commute (each way) The 1 hour lunch in which the employee was relieved of all work duties.

Example 2 – Overnight Travel (by airplane)

A non-exempt employee travels out of town for a 3-day conference, departing on Sunday. Employee's normal work schedule is from 8:00 am to 5:00 pm Monday through Friday.

- On Sunday, employee leaves home at 1 pm and drives to the airport for a flight that departs at 4 pm.
- The duration of the flight is 3 hours and the employee arrives at their destination airport at 7 pm.
- Employee takes a shuttle from the airport to the hotel.
- The employee works/conferences from 8:00 am to 5:00 pm on Monday, Tuesday and Wednesday with a one-hour meal period on each day during which no work is performed.
- After the conference, employee takes a cab and arrives at the airport at 7 pm for a flight that departs at 8 pm.
- The duration of the flight is 3 hours and the employee arrives Wednesday night at 11 pm.
- It takes the employee one hour to drive home.

Day	Compensable Time	Non-Compensable Time
Saturday	<ul style="list-style-type: none"> N/A 	<ul style="list-style-type: none"> N/A
Sunday	<ul style="list-style-type: none"> Drive time to airport, wait time at airport and one hour of the flight (because this is all travel time that occurs during normal working hours, even though it is a non-workday) Total hours worked = 4 (1 pm to 5 pm) 	<ul style="list-style-type: none"> Portion of the flight after 5 pm (because employee is a passenger and it is outside of normal working hours) Shuttle from airport to hotel (because employee is a passenger and it is outside of normal working hours)
Monday	<ul style="list-style-type: none"> 8 am to 12 pm and 1 pm to 5 pm Total hours worked = 8 	<ul style="list-style-type: none"> 12 pm to 1 pm (lunch)
Tuesday	<ul style="list-style-type: none"> 8 am to 12 pm and 1 pm to 5 pm Total hours worked = 8 	<ul style="list-style-type: none"> 12 pm to 1 pm (lunch)
Wednesday	<ul style="list-style-type: none"> 8 am to 12 pm and 1 pm to 5 pm Drive time home (1 hour) Total hours worked = 9 	<ul style="list-style-type: none"> 12 pm to 1 pm (lunch) Travel to airport and return flight (because the hours are outside of normal work hours and employee is traveling as a passenger)
Thursday	<ul style="list-style-type: none"> Total Hours Sun through Wed = 29 Upon return to work employee should meet with supervisor to discuss hours already worked and schedule adjustments to not exceed 40 hours in the week 	

QUESTIONS

If you have questions or to discuss a particular travel scenario, please contact human resources at x2903.