

INFORMATION MEMO

Fair Labor Standards Act: Compensation for Travel Time

Provides guidance in determining when compensation must be paid under the Fair Labor Standards Act when non-exempt employees travel for work purposes.

RELEVANT LINKS:

[29 U.S.C.A. §201-219.](#)

See LMC information memo
*Fair Labor Standards Act:
Determining Exempt vs. Non-
Exempt Status.*

[29 C.F.R. § 785.35.](#)
See Appendix A for a travel
time decision flow chart.
U.S. Dep't of Labor: [Fact
Sheet #22: Hours worked
under the Fair Labor
Standards Act \(FLSA\).](#)
[29 C.F.R. § 790.6\(a\).](#)

[29 C.F.R. § 785.36.](#)

[29 C.F.R. § 785.38.](#)

I. Coverage

All cities are covered by the Fair Labor Standards Act. However, some employees are “exempt” from the overtime provisions of the Act. The provisions discussed below about compensating employees for travel time when traveling for work purposes applies only to non-exempt employees.

II. Home to work travel

Generally, travel from home to work is not work time, no matter how long the commute or if the employee drives a city vehicle. The following examples are exceptions to this rule.

A. Travel from home to work after hours

An employee who has gone home after completing his or her day’s work is called out at night to travel a “substantial distance” to perform an emergency job for one of the employer’s customers. All time spent on such travel is working time. When travel is not a “substantial distance,” the Department of Labor takes no position on the compensability of home to work travel for emergency calls. “Substantial distance” is not defined and, therefore, the matter is left for the parties to negotiate.

B. Travel during the workday

Generally, the time spent by an employee traveling during the workday must be counted as hours worked. Also, if an employee is required to report somewhere before work to pick up materials or perform other work, the travel from the designated place to the workplace is compensable work time.

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

RELEVANT LINKS:

[29 C.F.R. § 785.36.](#)

[29 C.F.R. § 785.37.](#)

[Imada v. City of Hercules,](#)
138 F.3d 1294 (9th Cir.
1998).

[29 C.F.R. § 785.39.](#)

If the employee travels away from the worksite and the time spent extends beyond the normal workday, the amount of time that counts for hours worked depends on whether the employee is required to report back to work or goes directly home from the other location. If returning to work, the entire period (the travel to the other location, the work performed there and the return time back to work) is considered hours worked. If the employee goes home at the end of the day, then the time worker stops after work is completed at the other location, and the time spent returning home is not considered hours worked.

C. Special one-day assignment in another city

When an employee who regularly works at a fixed location in one city is given a special one-day assignment in another city, and such travel is performed for the employer's benefit and at the employer's request, that travel time is generally considered work time. Regular home to work travel time (or travel from home to public transportation) and meal period can be deducted because the employee would have had to report to his or her regular worksite anyway except for the special assignment.

The analysis can be different when the assignment is longer than one-day. Courts have affirmed that a three-day POST approved training course was not a special one-day assignment, and therefore, compensation was not required for travel time for police officers' time spent commuting from their homes to mandatory off-site training when that time exceeded their regular commuting time. The FLSA does not require compensation for travel time from home to a site where an employee is to perform essential parts of the activities the employee has been hired to perform. Regulations exempt from compensation an employee's travel to a location where he or she must stay overnight unless it cuts across the normal workday or the corresponding hours on non-working days.

While the Imada decision provides some guidance, it is uncertain how Minnesota courts would rule on whether travel time in conjunction with training is compensable time. Furthermore, to the extent the city has bargained with a union over travel time, the collective bargaining agreement would likely take precedence. In addition, the type of training may be relevant (e.g., whether required primarily for the employee's benefit or for the city's). The city should consult with the city attorney before making any decisions not to compensate for travel time associated with training.

RELEVANT LINKS:

[29 C.F.R. § 785.39.](#)

[29 C.F.R. § 785.39.](#)

[29 C.F.R. § 785.41.](#)

[29 C.F.R. § 785.40.](#)

[29 C.F.R. § 785.41.](#)

[29 C.F.R. § 785.40.](#)

III. Overnight travel away from home

Travel away from home is work time when it cuts across the employee's workday. The time to be considered is not only hours worked on regular working days during normal working hours, but also during the corresponding hours on non-working days.

For example, if an employee regularly works from 8 a.m. to 4:30 p.m., Monday through Friday, the travel time during these hours is work time on Saturday and Sunday as well as on the other days. Thus, if travel is overnight and done outside of working hours, the travel time is not compensable.

The Wage and Hour Division will not consider as work that time spent in travel away from home outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile. However, all time spent driving an automobile must be compensated except as described below. Do count regular hours worked when calculating travel done on non-workdays, as in the above example. Also see "Work while traveling" section below.

IV. Public transportation

If an employee is offered public transportation but requests permission to drive his or her car instead, the employer may count as hours worked the lesser of either:

- The time spent driving the car.
- The time the employee would have had to count as hours worked during working hours if the employee had used the public conveyance.

V. Work while traveling

Any work an employee is required to perform while traveling must be counted as hours worked. An employee who drives a truck, bus, automobile, boat, or airplane, or an employee who is required to ride therein as an assistant or helper, is working while riding. If travel time is spent as a passenger in an automobile, or on an airplane, boat, train or bus, it is not compensable. If an employee is offered public transportation for travel away from home but requests permission to drive instead, "the employer may count as hours worked either the time spent driving the car or the time he [or she] would have had to count as hours worked during working hours if the employee has used the public conveyance." Meal periods and sleep time in adequate facilities furnished by the employer need not be counted.

RELEVANT LINKS:

Here is an example of how work time is calculated for a non-exempt employee traveling overnight.

Kala, an employee of the City of Anywhere, Minn., attended a meeting for building officials in St. Paul on a Monday. Kala's regular work hours are 8 a.m. to 4:30 p.m., Monday through Friday. She is a non-exempt employee. Due to the distance of Anywhere from St. Paul, Kala drove to St. Paul on Sunday.

On Sunday Kala left Anywhere in her own car at 3 p.m. On her way to St. Paul she stopped at a fast-food restaurant from 5 to 5:30 p.m. to get something to eat. She arrived at her hotel in St. Paul at 7 p.m. She called home and then watched a movie on HBO. From 9:30 to 10 p.m. Kala reviewed materials to be discussed at the meeting on Monday.

On Monday Kala arrived at the meeting at 8:30 a.m. The meeting attendees received box lunches at 12 p.m. and ate them during a presentation by a state official. The meeting concluded at 2:30 p.m. Kala checked her work voice and emails and made calls from 3 to 5 p.m. to resolve a work issue.

She ate dinner at the hotel restaurant and was on the road by 6:30 p.m. Kala arrived home at 10 p.m.

For what hours should Kala be compensated?

On Sunday all meal times are deducted, but all hours as a driver are paid, yielding the following hours worked:

- 3–5 p.m. = 2 hours.
- 5:30–7 p.m. = 1.5 hours.
- 9:30–10 p.m. = .5 hours.
- SUNDAY TOTAL = 4 hours.

On Monday Kala had to work during lunch, so it is paid time, but her evening mealtime is deducted. All her driving hours are paid, yielding the following hours worked:

- 8:30 a.m.–2:30 p.m. = 6 hours.
- 3–5 p.m. = 2 hours.
- 6:30–10 p.m. = 3.5 hours.
- MONDAY TOTAL = 11.5 hours.

Depending on the city's scheduled work week, and the hours Kala works the remainder of the week, some of this work time may qualify as overtime.

RELEVANT LINKS:

800.925.1122
651.281.1200
HRbenefits@lmc.org.

VI. Further assistance

If you have any additional questions, please contact the League's Human Resources and Benefits Department.

APPENDIX A: Overnight Travel Time

Appendix 4-C Overnight Travel Time
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OVERNIGHT TRAVEL TIME

