

Training Time for Overtime-eligible Employees

Hours of Work and Overtime

State Personnel Department
2016



Application

- Employees who are eligible for overtime under the Fair Labor Standards Act (FLSA) must be compensated for all hours worked.
- Rate of pay will be calculated on number of hours worked in the calendar week. Hours worked in excess of 40 in a calendar week are compensated at a premium rate.*
- Time spent in work-related training by overtime-eligible employees may be compensable in the following situations.

**Exceptions to the 40-hour standard and weekly work period apply to law enforcement and firefighters.*



Training Time

Attendance by overtime-eligible employees at lectures, meetings, training programs and similar activities must be counted as working time *unless all four* of these criteria are met:

- (1) Attendance is outside of the employee's regular working hours;
- (2) Attendance is in fact voluntary;
- (3) The course, lecture, or meeting is not directly related to the employee's job; *and*
- (4) The employee does not perform any productive work during such attendance.



Conferences

- Mandatory attendance at social events conducted as part of a job-related conference or training is compensable.
- Voluntary attendance is not compensable.
- Example: A professional association has a reception on Sunday evening prior to the commencement of a conference on Monday morning.
 - Compensable if employer requires employee to attend.
 - Not compensable if employee chooses to attend voluntarily.



New Skills

- A training is “directly related to the employee’s job” if it is “designed to make an employee handle his job more effectively.”
- Training or course of study for the purpose of preparing for a promotional opportunity or other advancement is not directly related to the employee’s current job and, therefore, compensation is not required.
- Time spent taking a course of study does not become compensable merely because an agency has a program providing tuition reimbursement benefits to employees taking that course.



Study Time

- If the study is indispensable to the employee's primary duty, then it is compensable.
 - Example: A requirement for postal carriers to memorize specific address components or practice manual distribution of mail were considered indispensable to the employees' primary duties, and all such study/practice time was compensable.
- Study of a general nature that is of benefit to the employee as well as the employer may not be compensable time.
 - Example: Physical fitness training by law enforcement officers.



Law Enforcement / Firefighting

- Time spent in basic or advanced class and training activities at a police or fire academy for training is compensable when
 - It is required by the employer, and
 - The cadets meet the requirements for law enforcement (except arrest powers) or firefighting exemptions.
- Time spent studying or in personal pursuits is not compensable, even if the employee is confined to barracks or campus.



After-hours Access

When notifying employees about training:

- Clearly identify whether a training that occurs outside work hours is mandatory or merely information shared with employees for their own interest.
 - If training is mandatory or there will be consequences if they do not attend, then the time is compensable.
- Clearly state whether employees are authorized to take training on devices outside work hours – if so, that time is compensable.
 - Employees can access PS/ELM at any time or place, so if there is no authorization for overtime, prohibit employees from taking that training outside their assigned work hours.



Traveling to Training

- If employees must travel to another city or overnight for training, some of that travel time is compensable.
- See the next three slides.
- See also a separate presentation on Travel Time for Overtime-eligible Employees.



Examples of Travel Time

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.

- If an overtime-eligible employee's commute to/from the regular work site is 30 minutes, and the commute to/from the one-day assignment is 90 minutes, then the employee's compensable travel time is only 60 minutes.
- If overtime-eligible employees are traveling together to the same one-day assignment, compensable time for each begins
 - at the usual work site if they meet there to leave, or
 - when the driver picks-up each co-worker at other locations, minus their usual commute if it is less than the actual time required to commute from home to the work assignment.



Examples of Travel Time

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. As an enforcement policy the Division will not consider as work time that time spent in travel away from home outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile.

- An overtime-eligible employee who works M-F 8a-4:30p and leaves on Sunday at 3p for a training that begins on Monday must be paid 1.5 hours for that time on Sunday that is during regular work hours. Travel time outside 8a-4:30p that is spent as a passenger not performing any work is not required to be compensated.



Training at a Site Away from Home Community

Q: If an employee is in training for 3 days and lodging is provided but he chooses to drive home every night instead of staying onsite will the travel time to/from every day be compensated?

A: If lodging is provided and an employee chooses to travel away rather than use that lodging, that choice to travel does not make that time compensable. Note that if the return home every evening is due to a disability and is needed as a reasonable accommodation (eg, need for daily treatment by doctor/use of equipment that cannot be reasonably transported to the training site), then the travel time will be compensable. That would be the exceptional situation, not the norm.



Resources

- SPD web site
 - <http://www.in.gov/spd/2396.htm> Standardized Policies
 - **See Policies and Procedures:** Hours of Work & Overtime
- Financial Management Circulars (FMC)
on Budget's INTRAnet page: www.in.gov/sba/2512.htm
 - Job Classifications Normally Eligible for Premium Overtime
 - Compensatory Time Off for Normally-Exempt Employees
 - Traveling, Moving and Interviewing Policies for the State of Indiana
- Your HR Representative



Thank you

