

# Rules of the road: Travel time pay for hourly employees



You don't need to pay hourly employees for their travel time to and from the workplace. That's simple. But what if such employees occasionally travel off-site (or even overnight) for work reasons?

When to pay nonexempt workers for travel locally or on overnight trips baffles many employers. Mistakes can spark anything from mild complaints to class-action lawsuits—a black eye for you either way.

The Fair Labor Standards Act (FLSA) has rules on travel time pay for hourly employees. The best way to decipher them is using a case study.

## Home-to-work travel

Let's say Robert Smith is a nonexempt employee who sometimes travels for work. It's clear that you don't need to pay for his commute to work; the Portal-to-Portal Act of 1947 covers that.

But suppose you ask Robert to pick up some company documents along the way to work. In that case, you'd pay him from the time he picks up the documents. The law says that if the travel is for the company's benefit, it is compensable. If it is purely commuting, it's not.

## Working at different locations

The U.S. Department of Labor says travel time spent by employees as part of their principal activity, such as travel among job sites during the workday, is considered "work time" and must be paid.

For example, say Robert reports to headquarters before making his rounds to visit other company locations. In that case, the commute to headquarters is commuting time, but all travel from headquarters until his last stop is paid time.

Time from the last stop to home is unpaid commuting time. Any travel that is a regular part of the employee's job is paid time.

## Out-of-town day trips

Generally, time spent traveling to and returning from the other city is work time. You can exclude the employee's regular commuting time and meal breaks.

For example, say Robert drives to the airport and takes a 6 am flight to a seminar in Chicago. He arrives at 8:30 am and takes a cab to the seminar. The seminar runs from 9 to 5, with an hour lunch break. After the seminar, he chats with friends for an hour before taking a cab back to the airport. He flies back to his base city and drives home. Which hours count as "compensable" time?

You don't have to pay Robert for his trip to the airport; that's commuting time. But you do have to pay him from the time he arrives at the airport through his flight, cab ride and during the Chicago seminar. (You don't have to pay for his lunch period.)

Do you pay for Robert's chatting time with friends? If there are no other flights home until later, yes. But if Robert simply opts for a later flight to swap stories with his buddies, the answer is "No." The cab back to the Chicago airport and the flight home are paid time. The drive home from the airport is considered unpaid commuting time.

**Final tip:** Make sure nonexempt employees understand when they will be paid before they travel. Spell out the rules clearly in your employee policies.

Know the FLSA rules for rest periods, on-call time, training and more

*In addition to travel time, employers face many other questions about what counts as "compensable time" under the FLSA. Here are answers to some of the stickier issues:*

**ON-CALL TIME.** Employees required to remain on call on the employer's premises are considered working while on call. Employees required to remain on call at home (or who can leave a message where they can be reached) are considered not working (in most cases) while on call.

**WAITING TIME.** Employees are paid for waiting time when they are "engaged to wait." Employees fall under that definition if they're required to be at a work site while waiting to perform work.

**REST AND MEAL PERIODS.** You typically must pay employees for short rest periods, usually 20 minutes or less. You generally don't need to pay employees for bona fide meal periods (typically 30 minutes or more).

Employees must be completely relieved from duty during unpaid breaks and meal periods. *Example:* If you require your assistant to eat lunch at her desk in case a call comes in, she must be paid because she hasn't been fully relieved of her duties.

*Note:* Many states set their own rest-break and meal-break laws. For more information on state break requirements, see [www.dol.gov/general/topic/workhours/breaks](http://www.dol.gov/general/topic/workhours/breaks) .

**SLEEPING TIME.** Employees required to be on duty for less than 24 hours are considered "working," even if they're permitted to sleep. Employees required to be on duty for 24 hours or more may agree with their employer to exclude from hours worked any scheduled sleeping periods of eight hours or less.

**TRAINING PROGRAMS AND MEETINGS.** You don't have to pay employees for time spent at

training programs, lectures or similar activities as long as they meet the following four criteria: (1) The event is outside normal hours. (2) It's voluntary. (3) It's not job-related. (4) No work is performed during that time.

*Source:* Adapted from [DOL Fact Sheet No. 22](#).