

Compensating Nonexempt Employees for Out-of-Town Travel and Conference/Meeting Attendance

Same Day Travel

When travel that occurs in one day is performed for the employer's benefit and at the employer's request, it is considered part of the "principal activity" of the employer and would be considered compensable. However, for travel that occurs in one day, not all time needs to be counted as hours worked. The employee's typical "home-to-work" commute duration may be deducted.

Example:

A nonexempt employee who normally works on the main campus is sent to Oklahoma City to help with a one-day project. The normal work hours are 8:15 a.m. to 4:45 p.m. The employee commutes from home to the office which takes 30 minutes and arrives at 8:15 a.m. to pick up materials and then leaves for OKC.

The employee has a one-hour lunch break in which he or she is completely relieved of duties from 12:00-1:00 p.m. The employee finishes work in OKC at 4:45 and arrives home at 7:15 pm. The compensable time would be from 8:15 a.m.-12:00 p.m. (3.75 hours) and then from 1:00 to 6:45 p.m. (5.75 hours) for a total of 9.5 hours worked. The supervisor may exclude the 30 minutes for the normal home-to-work commute at the end of the trip and the hour for lunch.

Overnight Travel

If travel occurs during normal working hours on working or nonworking days (i.e., Saturday or Sunday), the time is compensable. If the travel time is outside an employee's normal working hours and the employee is a passenger on an airplane, train, boat, bus or car and free to relax, then the time is not compensable. If work is being performed while traveling or the employee is required to drive, this is considered time worked (excluding any bona fide meal periods or sleep time).

Example

A nonexempt employee who typically works Monday -Friday from 8:15 a.m. -4:45 p.m. is asked by his or her employer to attend a training session out of town and has booked a flight to travel on Sunday. The flight leaves at 1:00 p.m. and arrives at the destination at 3:00 p.m. The two hours for travel time is considered compensable as it occurs during the employee's normal work hours even though it is on a day the employee typically does not work. If the employee traveled on Sunday evening between 7:00 p.m. and 11:00 p.m. and is a passenger on a plane, train, boat, bus or car and not performing work, this time would not be counted as hours worked as it occurs outside the employee's typical work schedule. If, however, the employee drove to the Will Rogers airport from Stillwater from 2:00-4:00 p.m. (during what would be his or her normal work hours on Monday-Friday), then he or she should be compensated for that time.

If the employee has been directed by the supervisor to work during the trip (while the person is a passive passenger), then the employee must be paid for this time. In these circumstances, an employee must be completely relieved of work if not compensated.

Conferences/Meetings

The compensation for a nonexempt employee who attends an out-of-town conference, meeting or training, or who accompanies students or others on an officially sanctioned OSU trip, should be reviewed by the supervisor and the employee prior to the conference or trip, so that the appropriate hours for payment for hours worked can be determined in advance. That is, if the employee is not working all of the hours he or she is traveling to [see "Overnight Travel" above] or physically at the conference/meeting, then a schedule of work hours to be paid should be determined prior to the trip. For example, if a Monday-Friday 8:15 a.m.-4:45 p.m. employee catches a plane at 8:00 p.m. (after normal work hours have ended) and arrives at the conference destination by 11:00 p.m., having slept or read on the plane (and not done any work), then the time is not compensated. If the conference begins the next day at 9:00 a.m. and ends at 5:00 p.m., then, depending upon whether there was a working lunch or a "lunch on your own," that day at the conference, the employee should be compensated appropriately for the hours between 9:00 a.m. and 5:00 p.m., NOT from his/her "regular" work schedule of 8:15 a.m.-4:45 p.m.

Determining compensation for all hours worked when an employee is at a meeting/conference also depends upon what events a supervisor directs the nonexempt employee to attend. For example, many conferences offer evening motivational speakers, city tours and networking dinners, or early-morning 5K runs which are usually considered extras and not part of the conference proper. If the employee wishes to attend any of these events, she should discuss this with the supervisor prior to conference attendance to see if the supervisor wishes to compensate the employee for attending. Per the FLSA guidelines, in order for a conference or training activity not to be counted as compensable working time, the following four criteria must be met:

- 1) Attendance must occur outside the employee's regular work hours;
- 2) Attendance must be voluntary on the employee's part;
- 3) The employee must do no productive work while attending the event;
- 4) The program, conference, lecture, meeting, event or trip should not be directly related to the employee's job.

If the supervisor determines that these additional events are not compensable as work time, the employee may of course still attend, but the supervisor does not have to compensate the employee for attending, nor pay for the event itself, should there be an additional cost (such as for a city tour or a show).

In many cases, a nonexempt employee is required, as a part of his or her job, to accompany students or others on official OSU trips out of town. Even in such cases, not all hours involved necessarily must be compensated as work time, if the employee will be afforded meal breaks, sleep time, shopping or event attendance time not related to the trip, etc. during the trip. Again, the supervisor and employee should discuss the trip ahead of time, review the itinerary, and determine what times the employee will be relieved of duty and thus not compensated. Supervisors should be aware, however, that, should emergencies or situations arise in regard to the trip or the travelers on the trip that keep the employee from taking his or her pre-determined non-compensated sleep, meal or other breaks, then the employee must be paid or be given another break of equal length during the same trip.

Note to supervisors: Nothing in the federal regulations or guidelines prevent paying an employee for any or all of this time; rather, these guidelines indicate what **MUST** be paid. However, supervisors are cautioned that consistency and equitable compensation is key.

Important Links

University Accounting Travel Forms and Procedures:

<http://ua.okstate.edu/travel-forms-procedures>

University Timekeeping and Overtime Policy:

<https://stillwater.sharepoint.okstate.edu/Policies/Shared%20Documents/Timekeeping%20and%20Overtime.pdf>

DOL Travel Time Pay Determination:

<http://webapps.dol.gov/elaws/whd/flsa/hoursworked/screenER49.asp>

For further information or to discuss situations not covered above, contact OSU HR Partner Services at (405) 744-7401 or osu-hr@okstate.edu.