

**FAIR LABOR STANDARDS ACT
TRAVEL: DETERMINING COMPENSABLE TIME
FOR NON-EXEMPT EMPLOYEES**

Created by MU HRS 04/2005 – Updated by CMU 10/2016

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).

I. **HOME TO WORK TRAVEL** – *In general, the FLSA does not consider ordinary commuting as hours worked. Ordinary commute time is not compensable.*

Compensable

- 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.

Non compensable

- Ordinary travel from home to work is not considered hours worked.

II. **MISCELLANEOUS ISSUES**

- When an employee travels between two or more time zones, the time zone associated with the point of departure should be used to determine whether the travel falls within normal work hours.
- If an employee drives a car as a matter of personal preference when an authorized flight or other travel mode is available and the travel time by car would exceed that of the authorized mode, only the estimated travel time associated with the authorized mode will be counted as hours worked.
- If the employer provides hotel accommodations for overnight travel but the employee wishes to drive back home each evening, this time is not counted as hours worked.
- On days when an employee is out of town (but not traveling), the employee is compensated for hours worked such as attending a conference or a meeting. The employee is not compensated for time not working even if it is during the employee’s regular work schedule (e.g., employee goes sightseeing instead of attending a session of the conference or the conference sessions are only from 9 - 4).

II. **SAME DAY TRAVEL**– *In general, time spent traveling out-of-town and returning in the same day, counts as hours worked without regard to whether the employee is driving or riding as a passenger and without regard to whether the travel cuts across the employee’s normal work schedule. Travel counts as hours worked.*

Compensable

- Time spent traveling to and from a one day seminar, conference, meeting, etc. is counted as hours worked.

Non Compensable

- Regular meal periods do not count as hours worked.

III. **OVERNIGHT TRAVEL** – *In general, whether travel time counts as hours worked when an employee travels overnight, depends on whether the travel cuts across the employee’s normal work schedule. Travel time that cuts across the employee’s normal work schedule is compensable.*

Compensable

- *Travel during the normal work schedule:* Any portion of authorized travel that is during an employee’s normal work schedule counts as hours worked. Travel on non work days (like weekends) also counts as hours worked if it is during the employee’s normal work schedule.
- *Travel outside the normal work schedule:* only driving a vehicle counts as hours worked. In other words, the act of driving is considered manual labor which must be counted as hours worked if it is for the benefit of the employer. (Other forms of travel outside the normal work schedule are non-compensable. See below).
- *Meal times:* If an employee is *required* to attend meals, social events, etc., that time is counted as hours worked. Otherwise, meal times are not compensable.
- Time spent waiting at the airport counts as hours worked if it is during 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 perform work while riding in an automobile as an assistant or helper, the travel time counts as hours worked.

Non Compensable

- Meal times: Regular meal periods do not count as hours worked.
- *Travel outside normal work schedule:* **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.
- Travel between home and work or **between hotel and worksite** is considered normal commuting time and does not count as hours worked.
- Time spent sleeping does not count as hours worked.
- Time spent waiting at the airport outside of normal work hours does not count as hours worked.

Travel Scenarios

1. Overnight Travel

The employee's regular work schedule is 8:00 a.m. to 5:00 p.m., Monday through Friday. The employee gets up at 5:30 a.m. and leaves their home by 6:15 a.m., driving 90 minutes, arriving at their first high school visit by 7:45 a.m. The employee leaves the first high school at 9:15 a.m. driving to another location, arriving at the 2nd high school at 10:00 a.m. for a 10:30 a.m. visit. The employee waits in the parking lot until 10:15 a.m. or so, and then heads in the school. The employee leaves 2nd school at 11:30 a.m., stops for lunch at Panera, pulls out the lap top and checks email while having lunch. The employee leaves Panera 90 minutes later and drives to 3rd high school visit, arriving there at 1:15 p.m. for a 1:30 p.m. visit. Employee leaves high school at 2:45 p.m. and drives to a hotel, arriving at 4:00 p.m. The employee rests, works out, goes to dinner, and then heads back to their hotel room. The employee checks email from 8:00-9:00 p.m. before watching television and going to bed.

Question: What time is compensable?

Answer:

Time	Description of Activity	Compensable	Non-Compensable
5:30-6:15 a.m.	Hops out of bed, gets ready for work		X
6:15-7:45 a.m.	Departs home to drive to high school	X	
7:45-9:15 a.m.	Arrives 1 st high school (HS), visits with counselors, etc.	X	
9:15-10:00 a.m.	Departs 1 st HS and heads to 2 nd HS	X	
10:00-11:30 a.m.	Arrives @ 2 nd HS for 10:30 a.m. visit; waits in parking lot until 10:15 and heads in to appointment	X	
11:30 a.m.-1:00 p.m.	Departs 2 nd HS, stops for lunch at Panera, pulls out lap top and checks e-mails during lunch	X	
1:00-1:15 p.m.	Departs Panera, driving to 3 rd HS for visit	X	
1:15-2:45 p.m.	Arrives at 3 rd HS for 1:30 visit	X	
2:45-4:00 p.m.	Departs 3 rd HS, drives to hotel destination and checks in	X	
4:00-8:00 p.m.	Rests, works out, has dinner, goes back to hotel		X
8:00-9:00 p.m.	At hotel, checks e-mails for one hour	X	
9:00-? p.m.	Watches television before going to bed		X
	End of Day One of Overnight Travel		

2. Overnight Travel

This employee's regular work schedule is 7:30 a.m. to 4:00 p.m. Monday through Friday. The employee leaves Friday at 6:00 a.m. on a bus to Detroit to catch a flight at 10:00 a.m. Employee does not work, per se, while at the airport, nor during the flight to Florida. The employee arrives in Florida, gets rental car, and drives to the hotel, settling in at 3:30 p.m. The employee is free the rest of the day. Saturday, the employee attends a conference from 8:00 a.m. to 4:00 p.m.; lunch is on his/her own. Sunday, the employee attends the conference from 8:00 a.m. to 4:00 p.m., driving to the airport afterwards to catch a 6:00 p.m. flight back to Detroit. The employee arrives back at Detroit at 9:00 p.m. and catches the bus back to Mount Pleasant arriving at 11:30 p.m.

Question: What time is compensable?

Answer:

Time	Description of Activity	Compensable	Non-Compensable
Day One (Friday)			
6:00-10:00 a.m.	Departs Mount Pleasant, takes bus to Detroit to catch flight to Florida, checks in with airline	X (7:30-10:00 a.m.)	X (6:00-7:30 a.m.)
10:00 a.m.-2:30 p.m.	Flight to Orlando, FL	X	
2:30-3:30 p.m.	Arrives FL, picks up rental car, drives to hotel, checks in and gets settled	X	
3:30 p.m. on	Free rest of Friday to rest, sight-see, etc.		X
Day Two (Saturday)			
8:00 a.m.-4:00 p.m.	Attends conference (lunch on own)	x	Lunch
Day Three (Sunday)			
8:00 a.m.-4:00 p.m.	Attends conference (lunch on own)	X	Lunch
4:00-6:00 p.m.	Drives to airport, check in, wait for flight	X (est. 4:00-5:00)	X
6:00-9:00 p.m.	Flight back to Detroit		X
9:00-11:30 p.m.	Catches bus back to Mount Pleasant		X

3. Travel in Same Day

This employee's regular work schedule is 8:00 a.m. to 5:00 p.m., Monday through Friday. The employee works this weekday from 8:00 a.m. to 12 noon, has lunch from 12 noon -1:00 p.m., works in the office from 1:00 to 2:30 p.m. The employee leaves the office with a 2nd nonexempt employee at 2:30 p.m. and drives 2½ hours to a college fair. They stop for dinner 5:00 – 6:00 p.m. at their destination location, and then go to high school's college fair. The fair ends at 9:00 p.m. and they head home by 9:30 p.m., arriving back in Mount Pleasant at midnight.

Question: What time is compensable?

Answer:

Time	Description of Activity	Compensable	Non-Compensable
8:00 a.m.-12:00 noon	Works in the office	X	
12:00 noon-1:00 p.m.	Lunch break		X
1:00-2:30 p.m.	Works in the office	X	
2:30-5:00 p.m.	Rides in auto with another employee to college fair	X	
5:00-6:00 p.m.	Dinner		X
6:00-9:00 p.m.	Heads to high school college fair; works fair	X	
9:00 p.m.-12:00 a.m.	Loads car, heads to Mount Pleasant	X	

4. Travel in Same Day

An event coordinator has a normal work day of 8:00 a.m. to 5:00 p.m. Monday-Friday. The employee arrives at work and starts day their day at 8:00 a.m.; business as usual. The employee has lunch from 12:00 noon – 1:00 p.m. After lunch, the employee works until 2:00 p.m., at which time the employee departs for an event in Detroit. The employee is a passenger in a vehicle with his/her supervisor driving. They arrive at a Detroit hotel at 4:30 p.m., check in with hotel staff regarding the event, set up a registration table, and at 5:30 p.m. begin to greet guests. At 6:30 p.m., the employee attends the event (dinner/reception) until 8:45 p.m. at which time they begin their trip back to Mount Pleasant. They arrive back in Mount Pleasant at 11:00 p.m. where the employee picks up his/her car and heads home.

Question: What time is compensable?

Answer:

Time	Description of Activity	Compensable	Non-Compensable
8:00 a.m.-12:00 noon	Works in the office	X	
12:00 noon-1:00 p.m.	Lunch break		X
1:00-2:00 p.m.	Works in the office	X	
2:00-4:30 p.m.	Rides with supervisor to Detroit event	X	
4:30-5:30 p.m.	Arrives at hotel, check in with hotel staff re: event logistics, then set up registration table	X	
5:30-6:30 p.m.	Greets guests, check them in, etc.	X	
6:30-8:45 p.m.	Attends dinner, reception	Depends	Depends
8:45-11:00 p.m.	Rides in car from Detroit back to Mount Pleasant	X	
11:00-?	Picks up auto at work, drives home		X

5. Overnight Travel

The employee's normal work schedule is Monday-Friday, 7:30 a.m. to 4:30 p.m. The employee will attend a conference in San Diego, CA, that begins on a Sunday and would like to go a few days early to see the sites (paying for extra room nights, of course). The employee takes off Friday (vacation day, otherwise travel would be Saturday) to travel to Detroit to catch a flight to San Diego. The employee leaves Mount Pleasant at 5:30 a.m. for Detroit catching a flight at 9:30 a.m., arriving in San Diego at 1:35 p.m. (San Diego time). Employee catches shuttle to hotel, checks in, and is free to explore San Diego the rest of Friday and Saturday. Sunday, the conference kicks off at 2:30 p.m., with registration beginning at 1:30 p.m. The conference general session ends at 4:00 p.m. and employee walks through the expo hall until 6:30 p.m. The employee is now free rest of Sunday. The employee attends the conference Monday and Tuesday from 7:00 a.m. to 5:15 p.m., and Wednesday from 8:30 a.m. to 12:45 p.m., when the conference ends. In addition to the above conference schedule, Tuesday evening the employee attends a free concert hosted by the conference association/sponsor. The employee attends the conference on Wednesday until leaving early to head home. The employee leaves the conference via a shuttle at 10:00 a.m., goes to the airport, checks in and waits on the flight, grabbing a bite to eat before boarding. The employee flies back to Detroit from 11:30 a.m. to 5:00 p.m. The employee, after getting luggage and to their car, drives back to Mount Pleasant from 5:00 to 8:30 p.m. stopping for dinner along the way.

Question: What time is compensable?

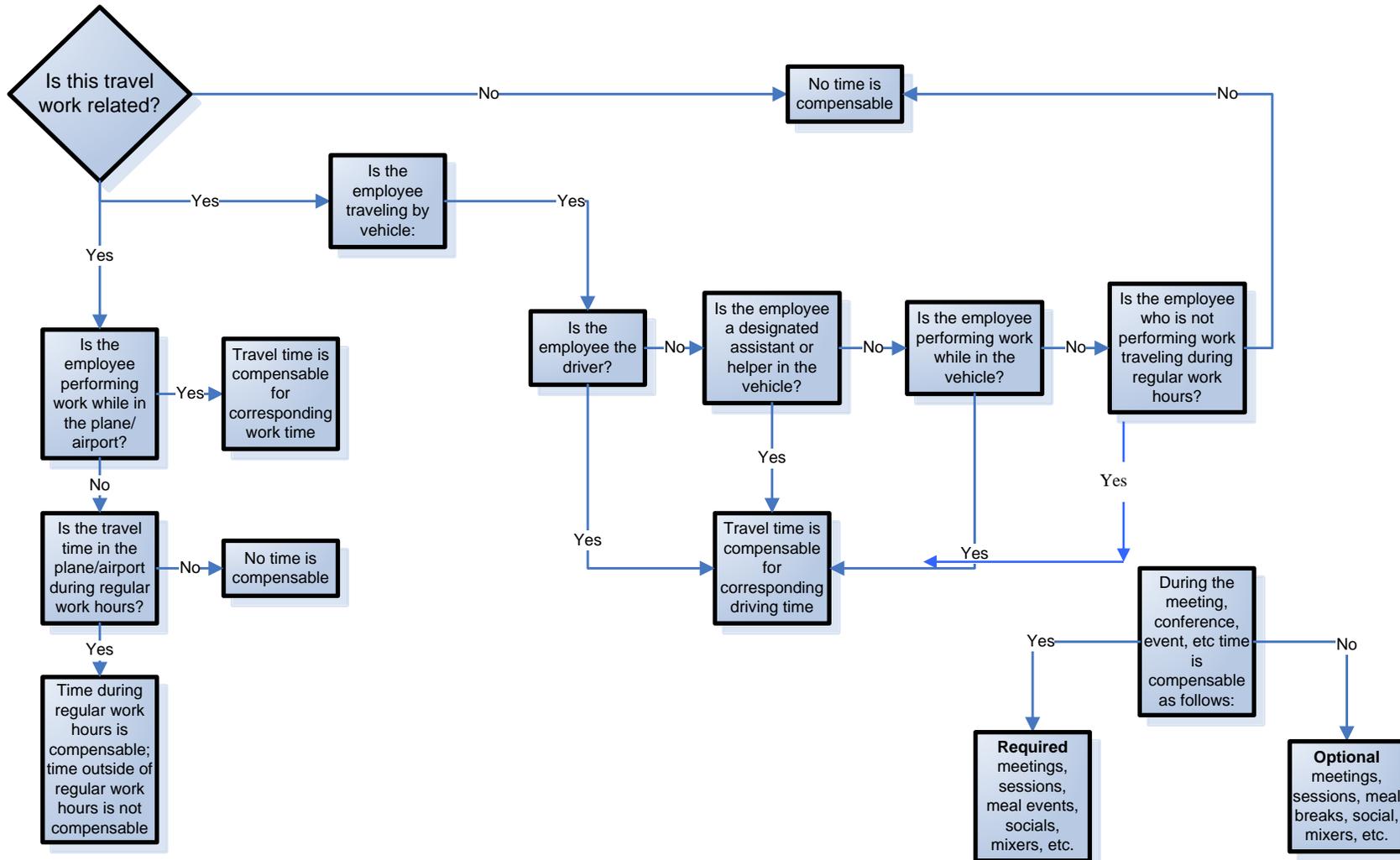
Answer:

Time	Description of Activity	Compensable	Non-Compensable
Day One (Friday)			
5:30-8:15 a.m.	Drives to Detroit Airport to catch flight	X	
8:15-9:30 a.m.	Checks in and wait at airport for flight	X	
9:30 a.m.-1:35 p.m.	Flight to San Diego	X	
1:35-2:30 p.m.	Picks up luggage, take shuttle to hotel, check in	X	
2:30 p.m.	Free rest of day		X
Day Two (Saturday)			
Open	Free to sight-see		X
Day Three (Sunday)			
	Free before/after conference activities		X
1:30-2:30 p.m.	Registers for conference	X	
2:30-4:00 p.m.	Attends Conference General Session	X	
4:00-6:30 p.m.	Walks around exhibit hall		X
Day Four (Monday)			
7:00 a.m.-5:15 p.m.	Attends conference (lunch on own)	X	Lunch
Day Five (Tuesday)			
7:00 a.m.-5:15 p.m.	Attends conference (lunch on own)	X	Lunch
8:00-10:00 p.m.	Attends concert (free) hosted by association (optional)		X
Day Six (Wednesday)			
8:30-10:00 a.m.	Attends conference; leaves early for airport	X	
10:00-11:30 a.m.	Catches shuttle to airport, checks in waits on flight	X	Lunch
11:30 a.m.-5:00 p.m.	Flight back to Detroit	X	
5:00-8:30 p.m.	Gets automobile and drives back to Mount Pleasant, stopping for dinner along way	X	Dinner

Overnight Travel Time:

FLSA Travel Time

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Created by M. Frederick and B. Gallup.

Careful consideration should be made when "strongly recommending" an employee to attend and event. This will be considered as an implied requirement which is compensable time.