

**COUNTY OF TULARE
OFFICE OF THE COUNTY ADMINISTRATOR**

***ADMINISTRATIVE REGULATION NO. #41
(Resolution No. 2012- 0732)***

SUBJECT: TRAVEL & TRAINING TIME

EFFECTIVE DATE: 9-18-2012

Introduction

The time employees spend in travel and training may be compensable as work hours, in accordance with the Fair Labor Standard Act (FLSA) requirements. While County departments may have certain policy or procedures that have been applied in accordance with the FLSA requirements, there has not been a County-wide regulation on when travel and training time is compensable. This regulation provides information on when travel and training time is compensable as hours worked under the FLSA.

This regulation is in accordance with the County's five year strategic plan that includes the Organizational Performance initiative with the objective to provide a qualified, productive and competitively compensated County workforce.

A. Overview

1. The Fair Labor Standards Act (FLSA) was enacted by Congress and sets the minimum requirements which then can be modified by the state law. It provides a minimum wage and overtime protection to workers throughout the United States.
2. In California, the industrial Welfare Commission (IWC) is the State agency empowered to formulate regulations (known as Wage Orders) governing employment in the State of California. On January 1, 2001, by the enactment of Minimum Wage Order 2001 (*MW-2001*), the IWC removed the exception from the state minimum wage requirements for public employees. Therefore, employees directly employed by State or any political subdivision thereof, including any city, county, or special district, are entitled to payment of not less than the minimum wage for all "hours worked".
3. Where an employer is covered by both Federal and State laws, and the applicable minimum wage or working conditions are different, the higher standard prevails.
4. Many Bargaining Units have Memorandums of Understanding (MOU's) with the County in which unique agreements regarding travel and training time are discussed. Employees and supervisors should be acquainted with the provisions of any MOU's affecting their bargaining unit. No provisions in any MOU are to be contrary to Federal or State law.
5. This Policy pertains to all non-exempt employees.
6. Each Department is responsible for implementing this regulation.

A. Compensable Travel Time

1. Commute Time

- a. Commute time is generally non-compensable. Normal travel to and from home and to and from work is not hours worked whether reporting to a fixed location or to different work sites.
- b. The “normal” work location of each County employee is defined in Administrative Regulation No. 1, as the place at which the employee spends the largest portion of his/her regular working time.
- c. If an employee is required to report to a meeting place where he/she is to pick up materials, equipment or other employees, or to receive instructions before traveling to the work site, compensable time starts at the meeting place. .
- d. Travel time from home to the first work site of the day and from the last work site of the day to home is commute time, even if the employee takes a County-owned vehicle home, provided all of the following conditions are met:
 - (1). Driving the employer’s vehicle between the employee’s home and the work site is strictly voluntary and not a condition of employment; and
 - (2). The vehicle involved is the type of vehicle that would normally be used for commuting; and
 - (3). The employee incurs no costs for driving the employer’s vehicle or parking it at home; and
 - (4). The work sites are within the normal commuting area of the employer’s establishment.
- e. If the employee regularly reports to different work locations on different days and, therefore, does not have a normal work location per B.1.b., work time begins on arrival at the first assigned work location of the day and ends upon leaving the last assigned work location at the end of the day.

2. Travel for Emergencies

- a. Travel to and from home and to and from a work site on an emergency call back basis will be compensable if:
 - (1) the employee travels to and from a work site other than the employee’s regular work location, AND
 - (2) the distance traveled to address the emergency is “substantial”.
- b. “Substantial” distance is defined as more than 150% of employee’s “normal commute distance”.
- c. “Normal commute distance” is defined as distance from home to work using the shortest route. Departments that require employees to travel on an emergency call back basis will be responsible to determine “normal commute distance” for affected employees.

3. Travel During the Workday

- a. Travel during the workday, after the employee has reported to the first work site of the day and before leaving the last work site of the day, is compensable hours worked.
- b. Departments should not require employees to report to a “check-in” work site or meeting place at the start or end of their shift unless necessary.
- c. If an employee is required to report to a meeting place where he/she is to pick up materials, equipment or other employees, or to receive instructions before traveling to the work site, compensable time starts at the meeting place.

4. Overnight Travel

- a. Travel time is compensable if traveling to or from a business location or other event where attendance is required by the employer when it cuts across the employee’s workday, even during regular working hours on non-working days. Overtime may apply.
- b. Time spent in travel away from home overnight outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile is not considered work time.
- c. Other time spent outside of regular working hours during a trip where employee is free to relax, such as time spent waiting in an airport between flights, does not count as working time.
- d. Employees who are required to perform work or to drive must be compensated for travel time even if outside regular working hours.
- e. If the employee travels by vehicle, travel time will not include excessive rest stops or detours from the most direct route.
- f. If the employee is offered public transportation but requests permission to drive, and such is granted, employer may count the shorter time as hours worked.

5. Special One-Day Assignments in another City

- a. A “special assignment” is defined as infrequent and/or unusual. It is performed for the employer’s benefit and at his special request to meet the needs of the particular and unusual assignment.
- b. If an employee is required to travel for a special one-day assignment, and the time traveled outside regular work hours is significantly longer than employee’s normal commute, the portion of the travel time that exceeds employee’s normal work day plus normal commute time is compensable. Time spent in travel outside of regular work hours as a passenger on an airplane, train, boat, bus, or automobile is not considered work time. The usual meal time would be deducted.
- c. “Normal commute time” is defined as time necessary to go from home to work using the shortest route at posted speed limits. Departments that require employees to travel on special one-day assignments will be responsible to determine “normal commute time” for employees.

- d. If an employee is required to travel for a special one-day assignment, and the time traveled is shorter than employee's normal commute, compensable time begins on arrival and ends at the completion of the assignment.

B. Compensable Training Time

1. General Policy

- a. Time spent at training sessions required by the employer is usually considered to be compensable.
- b. Attendance at training is not considered to be "voluntary" if:
 - (1) it is required by the employer, OR
 - (2) the employee is given to understand or is led to believe (intentionally or otherwise) that present working conditions or the continuance of employment would be adversely affected by nonattendance.

2. Voluntary Attendance at Training

- b. Time spent at courses or training sessions on a voluntary basis is non-compensable even if of benefit to the County, even if during regular working hours and even if paid for by the County. If attendance is during regular working hours, the employee will be required to use vacation or compensatory time off.
- c. If employee is made to believe (intentionally or otherwise) that there is an obligation to attend, attendance will be compensable. It is considered good policy to make employees aware of training opportunities however, it must be made clear whether attendance at particular trainings is mandatory or voluntary.
- d. If attendance at specific training is stressed as part of an employee's performance evaluation, attendance is compensable.
- e. Voluntary attendance at classes offered by an independent school, college or independent trade school after hours is not hours worked by the employee even if the classes are related to the job.
- f. Voluntary attendance at classes offered by the employer outside of normal work hours is non-compensable even if the training is directly related to the employee's current job.

3. Directly Related Training

- a. Time spent at courses or training sessions directly related to the employee's current job AND required by the department is compensable.
- b. Training is considered to be "directly related" to the employee's current job if it is designed to make the employee more efficient in their present duties. Training an employee for another job is not directly related. Training an employee for additional skills not part of employee's current job is not directly related.

- c. Time spent at courses or training sessions directly related to the employee's current job outside regular working hours and not required by a supervisor are considered voluntary and are, therefore, non-compensable even if paid for by the employer.

4. Reporting to Work Before or After Training

- a. Depending upon the starting time and location of the training, employees may be required to report to their regular work site first before attending their training.
- b. Employees are required to return to their regular work site if, after allowing for travel back to their regular work site upon completion of training, there would be at least on-half (1/2) hour remaining time in the normal work day.
- c. If the employee does not to report to work under conditions set in paragraphs a. and b., the employee may, with prior permission from a supervisor, use vacation or other benefit hours for the remainder of the day.