

FLSA and TRAVEL: DETERMINING COMPENSABLE TIME FOR NON-EXEMPT EMPLOYEES

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).

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

Compensable

- Taking a business call, running errands (e.g., picking up supplies) while traveling from home to work or vice versa is considered compensable only if it is work related.

Non-Compensable

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

TRAVEL DURING THE WORKDAY/IN-TOWN – In general, time spent traveling as part of the employer’s principal activity counts as hours worked (e.g., travel from job site to job site is compensable.)

Compensable

- Travel during the workday as part of the employer’s principal activity (e.g., travel from job site to job site).

SAME DAY TRAVEL/OUT-OF-TOWN – 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 occurs within 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 occurs within the employee's normal work schedule. Travel time that occurs within the employee's normal work schedule is compensable.

Compensable

- Travel during normal work schedule. Any portion of authorized travel that occurs within an employee's normal work schedule counts as hours worked. Travel on non-workdays (like weekends) also counts as hours worked if it occurs within the employee's normal work schedule.
- Travel outside of normal work schedule: Only driving a vehicle counts as hours worked. 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).
- Mealtimes: If an employee is required to attend meals, social events, etc., that time is counted as hours worked. Otherwise, mealtimes are not compensable.
- Time spent waiting at the airport counts as hours worked if it occurs within normal work hours.
- Any work which an employee is required to perform while traveling (e.g., answering emails, taking business-related phone calls) is counted as hours worked.
- 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.

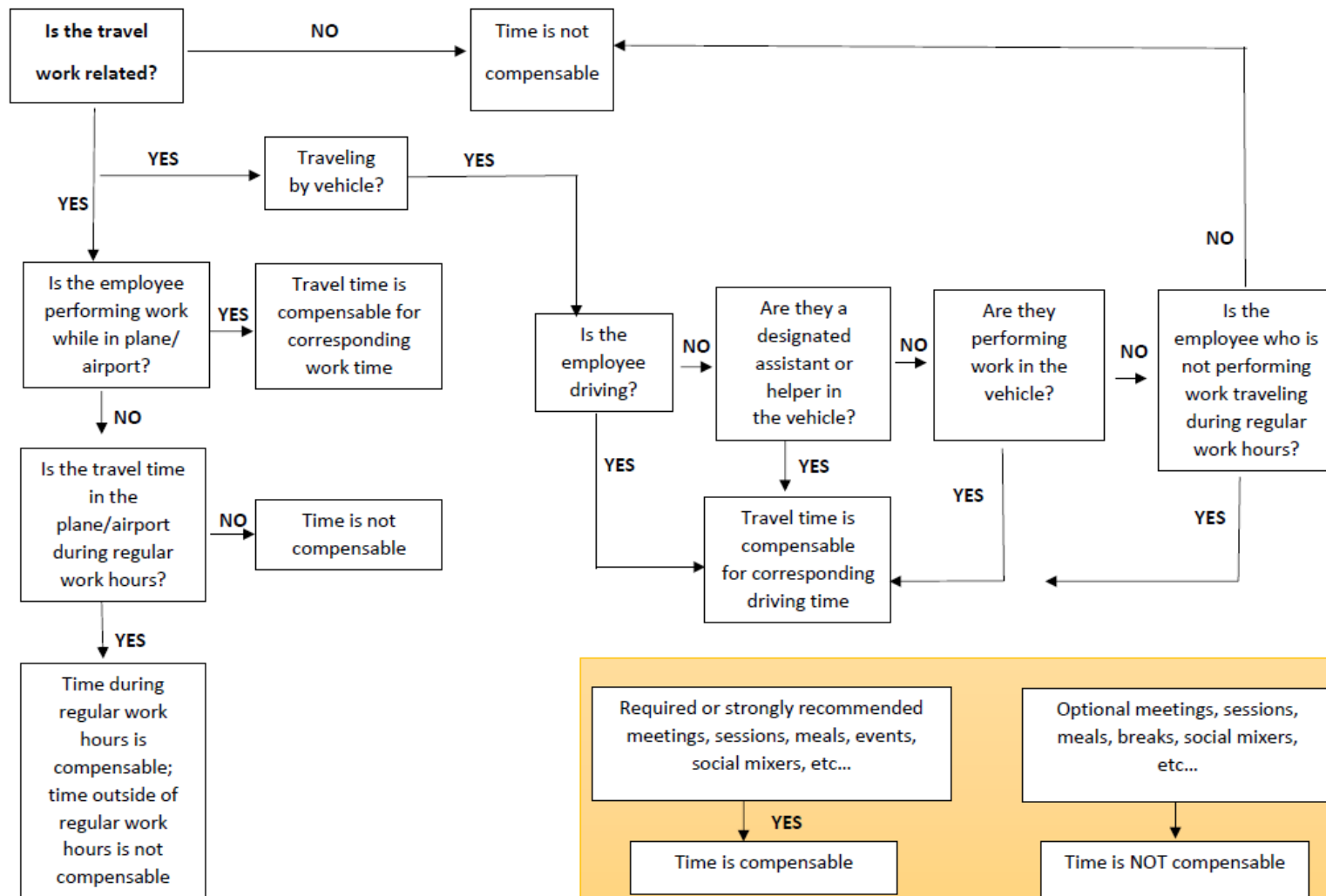
Non-compensable

- Mealtimes: 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. The act of riding as a passenger is not considered work.

- 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 between home and work or between hotel and worksite is considered normal commuting time and does not count as hours worked.

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 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 occurs within 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 am – 4 pm).



YES

Time is compensable

Time is NOT compensable