

On-call Time for Overtime-eligible Employees

Hours of Work and Overtime

State Personnel Department
2016



Application

- Employees who are eligible for overtime under the Fair Labor Standards Act (FLSA) must be compensated for all hours worked.
- Rate of pay will be calculated on number of hours worked in the calendar week. Hours worked in excess of 40 in a calendar week are compensated at a premium rate.*
- This presentation describes On-Call situations and whether or not overtime-eligible employees are compensated for that time.

**Exceptions to the 40-hour standard and weekly work period apply to law enforcement and firefighters.*



Waiting Time

Whether waiting time is hours worked under the Act depends upon the particular circumstances.

- The facts may show that the employee was engaged to wait (which is work time), or
- The facts may show that the employee was waiting to be engaged (which is not work time).



On-Duty Waiting Time

Waiting time during which the employee is required to remain on employer's premise or under employer's control that is an integral part of the job is on-duty time.

- An employee waiting for his office computer or printer to be fixed or a firefighter who plays checkers while waiting for an alarm is working during such periods of inactivity. These employees have been "engaged to wait" and that time is compensable.



Off- Duty Waiting Time

An employee who is required to remain on call at home, or who is allowed to leave a message where he/she can be reached, is not working (in most cases) while on call.

- Employees who are completely relieved from duty and told they need not begin work again until a specific time or event occurs are not working while on-call if the time is sufficient for personal pursuits.
- Some constraints on the employee's freedom are allowed; however, constraints that prevent the employee from personal pursuits could require this time to be compensated.



Constraints on Use of Waiting Time

- These constraints on the employee's use of time while away from the employer's premise in on-call status will not change off-duty waiting time into on-duty waiting time:
 - Refrain from alcohol or other substances that could impair the employee's ability to perform work if called;
 - Requiring employee to be located within an area from which he can report to work within a short time period;
 - Requiring employee to carry a phone or other device on which the employer can reach him.



Actual Work is Compensable

- If an employee who is on-call is, in fact, called and performs work, that work time is compensable whether it occurs at the employer's premises or another location.
- Time is rounded to the nearest quarter-hour.
- Travel time to/from an emergency call-out assignment that occurs outside an employee's regular schedule should be compensated.
- If an emergency call-out assignment to the employee's regular worksite lasts into the employee's next scheduled shift, then the time spent traveling to the assignment is compensable, but his commute home at the end of that regular shift is not compensable.



Actual Work is Compensable

- Work throughout the on-call period should be aggregated daily and the total rounded to the nearest quarter-hour.
- Example:
 - Employee is on-call for the weekend. She receives 2 calls Friday evening that take 23 minutes to answer. On Saturday, she takes 4 calls totaling 1 hour and 10 minutes. On Sunday she receives one call lasting 6 minutes.
 - Employee is compensated for these times:
 - Friday – 30 minutes
 - Saturday – 1 hour and 15 minutes
 - Sunday – no time
 - NOTE: Time Friday and Saturday may be at the premium rate if that work puts the employee over the 40-hour threshold.



Resources

- SPD web site
 - <http://www.in.gov/spd/2396.htm> Standardized Policies
 - **See Policies and Procedures:** Hours of Work & Overtime
- Financial Management Circulars (FMC)
on Budget's INTRAnet page: www.in.gov/sba/2512.htm
 - Job Classifications Normally Eligible for Premium Overtime
 - Compensatory Time Off for Normally-Exempt Employees
 - Traveling, Moving and Interviewing Policies for the State of Indiana
- Your HR Representative



Thank you

