



Guidelines summarizing FLSA hours worked regulations

For the purposes of this document, “employee” refers to non-exempt employees.
“Regular working hours” refers to the employee’s normal, documented work schedule.

OVERVIEW

This document summarizes the Department of Labor’s (DOL) guidelines and the University System of Georgia’s (USG) policies related to when a non-exempt employee must be compensated. This document is not meant to be exhaustive and focuses primarily on the following situations which may be frequently encountered in an institutional setting:

<ul style="list-style-type: none"> • Hours Worked • Travel Time • Training and Conferences • Meals and Breaks 	<ul style="list-style-type: none"> • Standby Time • On-call time • Sleep time
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HOURS WORKED

Hours worked include hours during which an employee is actually performing productive work as well as the hours when no work is performed but the employer requires the individual to remain available for the next assignment. Such work may be performed on the employer’s premises, at an employer-approved job site, at some other location, or working at home. An employee must be compensated for all “hours worked” for the employer regardless of where the work is performed. Additionally, nonexempt employees responding to work emails, working on projects from home after hours, or attending required work-related trainings are entitled to compensation for such time.

The following listing is not all-inclusive but may be useful as a guide in determining the nature of hours worked. Expanded details and examples on several of the summarized items are included in the remainder of this document.

Work Time	Not Work Time
Principal activities and preparatory work associated with principal activities.	Absences and compensated leave time including: (1) vacation time; (2) military training leave; (3) sick leave time; (4) holidays not worked; (5) jury duty time; (6) compensatory time off; (7) voting time; (8) inclement weather time as determined by the University.
Meal periods: (1) if employees are not free from performing job duties; (2) if too short to be useful to employees (minimum of 30 minutes required).	Meal periods involving no duties and lasting ½ hour or longer.
Training programs required by employer.	Training program voluntarily attended, outside of working hours, unrelated to regular duties, and involving no productive work.
(1) UGA-employed driver and passengers in a private vehicle outside normal work hours. (2) Time spent traveling during normal work hours, regardless of mode of transportation.	Traveling from home to airport or other terminal by common carrier (e.g., bus, shuttle).
Scheduled on-call time where an employee is required to restrict personal activities such that the employee cannot use his/her time effectively for his/her own purposes.	Scheduled on-call time where employee merely leaves telephone number or carries a paging device. Employees required to reside on employer’s premises when not on duty.
Medical attention during work hours for a job-related injury.	Medical attention which is not job related.
Charitable/volunteer work requested or controlled by employer.	Charitable/volunteer work not requested or controlled by the employer.

TRAINING TIME

Generally, when the employer permits or requires a non-exempt employee to attend training, lectures, or meetings, such time is considered worked unless **all** of the following criteria are met:

- 1) attendance is outside of the employee's regular work hours; and
- 2) attendance is voluntary; and
- 3) the course, lecture, or meeting is not directly related to the employee's job; and
- 4) the employee does not perform any productive work for the employer during such training.

MEAL AND BREAK TIME

Per UGA procedures: Non-exempt employees who are required to work six or more hours per day should be given an unpaid meal break of at least 30 minutes. During the meal period, the non-exempt employee must be completely relieved from duty; otherwise, he/she must be paid for work time. It is not necessary that the employee leave the premises if s/he is otherwise completely freed from duties during the meal period. Supervisors determine the schedule for lunch breaks. Lunch periods for exempt employees are not required but are highly recommended.

For employees who work an eight hour shift in an around-the-clock operation (e.g., campus police), a 30-minute meal break is not required, but the employee must be given the opportunity to eat while maintaining active on-duty status.

If the work situation permits, a supervisor may authorize two 15-minute breaks, one in mid-morning and one in mid-afternoon. When provided, breaks are paid time.

Employers can implement policies to prevent employees from working during unpaid meal or lunch periods, such as requiring employees to eat lunch away from their workspace, to ensure they will not be held responsible for paying employees during that time.

EXAMPLE. An employee is scheduled to work from 9:00 a.m. to 5:30 p.m. with 30-minute unpaid lunch break from 12 to 12:30 p.m. For a full week, to meet a deadline, the employee works through her lunch breaks. Her supervisor is aware of the employee's practice of working through lunch and takes no steps to stop it. In this scenario the employer would be required to pay the employee for the time worked during the lunch break, including any overtime hours that may have accrued for the workweek.

GENERAL TRAVEL TIME RULES

When non-exempt employees are traveling, managers should meet with them to review the travel itinerary and confirm what are considered working hours in accordance with USG policies and DOL regulations. All compensable hours worked during the travel must be recorded and reported to ensure an accurate calculation for payroll purposes.

Employees should be compensated for all travel including:

- Performing work while traveling, e.g., preparing for a meeting, reviewing documents, making telephone calls;
- Time spent by the driver picking up other passengers and transporting them to a specific location;
- Time spent traveling during normal work hours

Employees are generally not compensated for the following travel times:

- Commute time as defined below;
- Commute time where no work is done;
- DOL regulations do not require compensation for time when a passenger is traveling outside of regular work hours (i.e., before 8am or after 5pm). However, UGA will consider passengers as compensated if they are traveling with a driver who qualifies for compensation.
- During regular meal period taken during travel where no work is done

COMMUTE TIME

A nonexempt employee's commute time (when traveling from home to work) is not considered hours worked and not compensable. However, if the employee is required to report to a meeting place where he or she is to pick up materials, equipment, or other employees, or to receive instructions before traveling to the work site, travel time from the meeting place to the work site is compensable. If the employee stops at the home office for his or her own convenience, the time traveling from the office to the site is not compensable.

TRAVEL DURING THE WORKDAY

Travel as a part of the employer's principal activity must be counted as hours worked. If the travel is for the benefit of the employer, it is compensable.

EXAMPLE. If an employer requires its admissions recruiters to meet on campus before traveling to a high school, the employer would be required to include the time spent traveling between the home campus and the high school in the hours worked by each recruiter. Likewise, any time spent by any recruiter traveling between two or more high schools during the same workday is considered hours worked. The institution would not, however, be required to include as hours worked 1) time spent by the employee traveling from home to the home campus before traveling to the high school or 2) traveling home from the home campus after the workday is over.

OUT OF TOWN TRAVEL DURING THE WORKDAY

If the employee is assigned to work in another city for one day and the travel is performed at the employer's request and for the employer's benefit, it is part of the principal activity of the employee and therefore is compensable.

EXAMPLE. A non-exempt employee whose normal work hours are 8:00 a.m. to 5:00 p.m. in Atlanta is given an assignment to be in Savannah for one day and return that evening. The non-exempt employee leaves at 7:00 a.m., the meeting is over at 3:00 p.m., and the employee returns at 6:00 p.m. In this case, the travel time between 7:00 a.m. to 8:00 a.m. and 5:00 p.m. and 6:00 p.m. is considered as hours worked and the two hours count towards calculating eligibility for overtime over 40 hours. Assuming that the non-exempt employee did not perform any other extra work during the work week, the employee worked 42.0 hours in the work week, and would be eligible for 3 hours of compensatory time.

OVERNIGHT TRAVEL

Travel performed at the request and for the benefit of the employer that keeps an employee away from home overnight is travel away from home. Travel away from home is considered work time when it cuts across the employee's regular workday hours and is compensable.

Compensable	Non-compensable
If this travel occurs during normal work hours on normal work days (i.e., 8-5 Monday - Friday) or non-working days (i.e., Saturday or Sunday) the time is also compensable.	If this travel away from home occurs outside of regular working hours (i.e., before 8 am or after 5 pm) as a passenger on an airplane, train, boat, bus, or automobile and the employee is completely relieved of his/her duties, the time is not considered compensable time.
If the employee is the driver of the vehicle, the employee must be compensated as work time. UGA will consider passengers as compensated if they are traveling with a driver who qualifies for compensation.	Time spent at a hotel with freedom to use time for the employee's own purposes is not compensable.

Example – Travel outside of normal work hours. If an employee normally works from 8:00 a.m. to 5:00 p.m., an employer is only required to include time spent traveling during that time period as hours worked.

- Time spent traveling before 8:00 a.m. and after 5:00 p.m. **as a passenger** would not need to be included – with two caveats: (1) if the employee actually performs work while traveling or (2) if the employee is traveling with a driver who is compensated for work hours by the University.
- If an employee normally works Monday through Friday from 8:00 a.m. to 5:00 p.m. and the employee is traveling on Saturday, the employer would be required to count as hours worked the time spent traveling by the employee between 8:00 a.m. and 5:00 p.m. on that Saturday.
- If the employee’s travel spans that entire normal workday time period, the employer would be required to include all that time, minus bona fide meal periods, as hours worked.

EXAMPLE 1. An employee who regularly works from 8 a.m. to 5 p.m. from Monday through Friday is assigned overnight travel. The employee travels on business to a location that requires two hours of travel time.

1). The employee leaves Friday at 8 a.m., arrives at the work location at 10 a.m. and works until 5 p.m. on Friday. *The employee should be compensated for 8 hours of work on Friday (assuming a 1-hour unpaid lunch break).*

2). The employee begins work at 8 a.m. on Saturday morning, takes an hour meal break, and returns home on Saturday at 2 p.m. This results in 5 worked hours for Saturday. The supervisor may elect to flex 5 hours out of the employee’s remaining schedule to maintain a 40-hour work week. If the supervisor does not flex the employee’s remaining schedule for the work week, s/he must consider the 5 hours as 7.5 hours (5 hours x 1.5) of compensatory time or 5 hours of overtime paid at 1.5 times the employee’s regular hourly rate.

EXAMPLE 2. An employee who regularly works from 8 a.m. to 5 p.m. from Monday through Friday is assigned work out of town. On Friday, the employee works at his regular job location until 4 p.m. and then travels by bus to an out of town work location, arriving at 6 p.m. The employee is compensated for 8 hours on Friday because only the travel time that overlaps the employee’s regular working hours (4 p.m. to 5 p.m.) must be paid per overnight travel guidelines. On Saturday, the employee works from 8 a.m. to 4 p.m. with an hour meal break. The employee then leaves to travel home by bus, arriving at 6 p.m. Since only the travel time that overlaps the employee’s regular working hours on a non-working day must be paid, the employee is eligible for 12 hours of compensatory time (8 hours x 1.5) or 8 hours of overtime paid at 1.5 times the employee’s regular hourly rate.

EXAMPLE 3. Three employees are traveling by plane to attend a weekend conference in Houston, TX. All three employees have a regular schedule of 8 a.m. to 5 p.m. from Monday through Friday.

- 1) The three employees carpool from their office to the airport on Saturday at 1 p.m. for a 4 p.m. flight. They arrive at the airport at 2:00 p.m. The driver and the two passengers are compensated for the driving time from 1 p.m. to 2 p.m.
- 2) The time spent waiting on the flight from 2:00 p.m. through 4:00 p.m. is compensated as worked time because it crosses the employees’ regular work schedule of 8 a.m. to 5 p.m., even though it’s Saturday.
- 3) The flight is 2 hours (4 p.m. to 6 p.m.*). All three employees are compensated for 1 hour of travel on the flight (4 p.m. to 5 p.m.) because that time crosses their regular work schedule of 8 a.m. to 5 p.m. As stated above, any pre-approved performance of work during travel would be compensated. **Although the arrival time is 5 p.m. Central Standard Time (CST), the travel hours are based on the employees’ regular schedules which are Eastern Standard Time (EST); therefore, their travel time as a passengers on the plane is not considered worked time after 5 p.m. EST.*
- 4) The three employees get a taxi from the airport at 6 p.m. EST and arrive at their hotel at 6:30 p.m. EST. This time is not compensated since they are all passengers travelling outside of their regular work hours.
- 5) From 6:30 p.m. EST onward, the employees are free to use their time for personal purposes and are only compensated for the pre-approved performance of work.
- 6) All time spent at the conference would be compensated as worked time for all three employees. However, bona fide meal and non-compensated breaks apply, as usual.

STANDBY TIME

On-duty standby time should be counted as hours worked because the employee is generally not allowed to leave the workplace during a period of on-duty standby time. Essentially, because the employer benefits from having the employee available for immediate engagement in work and the employee is not otherwise able to use the time effectively for his/her own personal purposes, on-duty waiting time must be counted as hours worked. These on-duty standby time periods usually last only for a short time and can be unpredictable as to when they occur and how long they will last.

EXAMPLE. Emergency personnel reading a newspaper while waiting for an emergency call. This example represents a situation in which the hallmarks of on-duty standby time are present. The employee:

- is not engaged in the work for which he/she was hired;
- remains subject to the direction of his or her employer;
- is not able to effectively use the time for personal purposes; and
- is unsure when the waiting period will occur and/or how long it will last.

Off-duty standby time does not count as hours worked if the criteria below are met:

- the employee is completely relieved of his or her job duties and is told such by the employer;
- is free to use the time for his/her own personal purposes;
- has sufficient time to take advantage of being relieved of all work duties; and
- is aware of the specific time he or she must return to work.

EXAMPLE: An employee who travels across town for a project meeting on a Saturday that ends at 10:00 a.m. and remains across town for a project meeting that starts at 2:00 p.m. would be off duty for the time in between the two meetings if he/she is not required to perform any job duties and is free to do as he/she pleases during that time. Again, critical to the determination of whether waiting time is off-duty and, thus, does not need to be counted as hours worked, is whether the employee meets the criteria listed above.

On Call is the scheduled state of availability to return to duty, work ready, within a specific period of time. When employees are on-call, they are waiting to be called upon by their employer or supervisor to perform a task. This is typically called “waiting to be engaged.” Some on-call conditions may require the employee to have a cell phone or other means of communication at all times or remain on the employer’s premises. Other on-call conditions may restrict the employee’s personal activities, or require a specified response time when called upon. Depending on the circumstances, some conditions can be non-restricted or restricted; which is generally examined to determine if the on-call time is hours worked. If an employee is called to work, the minimum is 3 hours compensation.

- **Non-restricted Conditions.** Non-restricted conditions enable employees to use time effectively for their own personal use while on-call. For example, a help desk professional may be required to carry a cell phone and return to the employer’s premises within thirty minutes after being called, but the help desk professional is free to sleep, visit with friends, or go shopping. These are considered non-restricted conditions. In most cases, non-restricted conditions time means employees can use effectively for their own purposes and therefore, the time is not considered hours worked.
- **Restricted Conditions.** Restricted conditions, conversely, restricts the employee from effectively using the time for personal use. For example, if the on-call help desk professional was required to remain available and take calls from the employer such that the calls prevent free use of time, or the conditions impede the individual from using the time effectively for personal use, then the on-call time could be considered hours worked at the employee’s normal rate.

SLEEP TIME

Some occupations require an employee to be on the employer's premises and available to work even though there are periods of time when actual work is not being performed and it may be appropriate for the employee to spend some time sleeping. Under such circumstances, the federal regulations address when an employer must pay for this sleeping time and include it in overtime calculations as described in the examples below.

Employees on duty less than 24 hours. An employee who is required to be on duty for less than 24 hours is working even though he/she is permitted to sleep or engage in other personal activities when not busy. This usually occurs when the employer requires the employee to be present on its premises during a shift but the employee is not expected to perform his or her main job duties during the entire shift.

- **EXAMPLE:** Firefighters, when on duty, are typically required to be present at the fire station unless they are responding to an emergency call or performing some other community service. When firefighters are not involved in these and other maintenance or safety activities, they may be allowed to sleep. The employer would be required to pay the firefighter for his or her sleep time. This is because the firefighters have forfeited control of their activities to the benefit of the employer who may call on them at any time while they remain on duty to perform work.

Employees on duty 24 or more hours. Employers must pay employees who remain on duty for 24 or more hours for sleeping time and any bona fide meal periods and include the time in any overtime calculations, unless otherwise agreed to by the parties.

Employees who are required to be on duty 24 or more hours may enter into an agreement with the employer to exclude sleeping time and meal periods from hours worked, provided the employer provides adequate sleeping facilities and the employee is generally permitted to have 8 hours of uninterrupted sleep.

Additionally, the employer can only take credit for a maximum of 8 hours of sleep time. If an employee's sleep time is interrupted to perform work and the employee does not get a good night's rest (defined as a minimum of 5 hours of sleep), the employer cannot take any sleep time credit and must count all time, including any hours the employee slept, as hours worked.

If the employee is required to perform work during sleeping time, but is otherwise able to get a good night's rest (more than 5 hours of sleep), the employer needs only pay the employee for the time the employee actually worked.

- **EXAMPLE:** Firefighters, when on duty, are typically required to be present at the fire station unless they are responding to an emergency call or performing some other community service. There should be a sleep time agreement between employer and employee prior to the assignment. When firefighters are not involved in these and other maintenance or safety activities, they may be allowed to sleep. If the firefighters sleep more than the 5 minimum hours, they would not be compensated for their sleep time. Where no expressed or implied agreement to the contrary is present, the 8 hours sleep time and lunch periods constitute hours worked.

Employees residing on employer's premises or working at home. Employers are not typically required to pay employees for sleeping time if the employee resides on the employer's premises or works from home.

- **EXAMPLE:** When not scheduled to work, a Resident Hall Coordinator who may live on site generally has sufficient periods of time in which he or she is free to engage in personal activities or leave the employer's premises for personal reasons. In these situations, the Resident Hall Coordinator would not be compensated for sleeping time although they reside on site. An exception would apply in the situation when an individual is on-line. Refer to the on-call section of this document for more details.