

## **Have Employees – Will Travel**

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Keeping track of your obligations under wage and hour laws can be hard enough when your employees stay put. When your people travel as part of their jobs, the application of wage and hour law can get a bit more complicated. Ideally, your employee handbook or policy manual will include a section on work related travel. If not, consider setting out a clear statement on how your company will handle travel related recordkeeping and compensation questions; chances are it will go a long way toward avoiding confusion and heading off a potential wage claim.

**Q. We're considering sending several of our Medford based employees to a two-day recertification class in Eugene. Do I need to pay for the time they spend in training away from the office?**

A. For the most part, employee participation in trainings, lectures or meetings that you require is a cost of doing business. There are, however, a couple of exceptions. Time spent in such activities is not part of compensable hours of work if the following four criteria are met:

- Attendance is on employee's own initiative (voluntary in nature).
- Attendance takes place outside an employee's regular work hours.
- The training provided is not directly related to an employee's current job.
- An employee does not perform any productive work during the course of the training.

Admittedly, that is a pretty tight filter, but there is another exception (among a few others) that may help here: Time spent that is required for certification of employees by any law or ordinance need not be compensated, provided the required training takes place outside regular working hours.

**Q. It looks like our employees will need to be paid for their training time – does that mean we need to pay for their travel time as well?**

A. The answer here is a solid "it depends." Ordinarily, an employee's normal home-to-work and work-to-home travel is not paid time. Among several exceptions to this general rule, however, is a provision that deals with overnight travel. Where an employee is required to remain away from his or her home community overnight, you would need to pay for any travel time that cuts across the employee's normal work hours – even on days when the employee would ordinarily not be working.

If you were to require, for example, a group of office employees who normally work Monday through Friday, from 8 am to 5 pm to leave on a Sunday afternoon at 3:30 for a two-day conference, the employees would need to be paid for the travel time from 3:30 to 5:00 since that time cuts across their normal work hours. Any additional travel time required to get to the hotel or conference would not be paid. The exception here is that the employee who was required to do the driving would need to be paid for all of his or her travel time.

Keep in mind that there are other situations where an employee's travel time would also be compensable. For example, even though normal commute time is not typically compensable, once the employee has checked in at the shop or made a required stop for materials, instructions or to pick up other workers, drive time from that point on is compensable as part of the day's work. Finally, be aware that under certain circumstances even travel time from the employee's doorstep can become compensable (such as where an employee is sent on a one-day assignment to a city more than 30 miles from the employee's fixed official work station).

**Q. Can we pay a compensable travel time hours at a different rate of pay than we do for "normal" hours worked?**

A. Yes, you may, as long as the rate you pay for travel time is at least equal to minimum wage (currently \$8.80 per hour). If you intend to pay for travel time at a rate lower than the regular hourly rate, keep in mind that you will need to clearly advise your employees of this policy before they undertake the work.

**Q. Do compensable travel hours have to be included when calculating overtime?**

A. Yes. Compensable travel hours must be counted for purposes of calculating whether an employee has performed more than 40 hours of work in a single workweek. If you do pay a separate rate for travel time, you will also need to compute the regular rate of wage for all hours worked in that workweek (a weighted average) for use as the basis for your overtime calculations.

**Q. Our employees are not taking a company car--Does that mean we will need to pay mileage or reimburse them for fuel?**

A. Generally, no. But keep in mind that an employer may not require an employee to absorb the cost of required travel expenses if doing so would have the effect of drawing the employee's wages below the minimum wage for all hours worked (again, \$8.80 per hour). For that reason, many employers will need to implement some system of reimbursing required expenses that are not for the private benefit of the employee (such as per diems, mileage and hotel reimbursements).

**Q. If the employer does pay per diem and/or mileage to employees, would an employer still need to pay for travel time?**

A. Yes, the travel time rules would still apply. For more information on these and other wage and hour topics, consider joining TA in Portland on September 6 or in Eugene on November 6 for our full-day seminar on wage and hour laws. **Our upcoming seminar schedule, resources and publications for employers, as well as our online fact sheets are all available on our website at [www.oregon.gov/BOLI/TA](http://www.oregon.gov/BOLI/TA). You can also reach us by phone at 971-673-0824.**