Determining Compensable Time for Non-Exempt Employees

Under the Fair Labor Standards Act (FLSA) and Massachusetts wage laws, a non-exempt employee must be paid for all hours that the employee is required, or permitted to, work. This document addresses under what circumstances time spent traveling is considered compensable (i.e., time is counted as hours worked).

- **Commuting Time**
  - In general, ordinary commuting time (i.e., the time spent traveling from your home to your worksite) is not considered as hours worked. Therefore, ordinary commuting time is not compensable.

- **Commuting Time When Traveling To and From a Different Location in the Same Day**
  - If an employee who regularly works at a fixed location is required to report to a location other than this fixed location, the employee should be compensated for all travel time in excess of his/her ordinary commuting time and should be reimbursed for associated travel expenses.

- **Travel During the Work Day**
  - If a non-exempt employee is required or directed to travel from one place to another after the beginning, or before the end of, the work day, s/he should be compensated for all travel time and should be reimbursed for all transportation expenses.

- **Travel in the Same Day**
  - If an employee who regularly works at a fixed location is required to report to a location other than this fixed location, the employee should be compensated for all travel time in excess of his/her ordinary commuting time and should be reimbursed for associated travel expenses.
  - In general, any time spent traveling out of town and returning in the same day counts as hours worked without regard to whether an employee is driving or riding as a passenger and without regard to whether the travel occurs within or during the employee’s normal work schedule.

- **Overnight Travel**
  - Any portion of authorized travel that occurs within an employee’s normal work day counts as hours worked and is compensable.
  - Any work while or when traveling, whether during or outside normal work hours, and whether done while a passenger on a plane, in a car, or while in any location, which an employee is required to perform, is counted as hours worked (e.g., answering emails, taking business related phone calls).
  - Driving a vehicle (either the employee’s own or someone else’s vehicle) regardless of whether the travel takes place within or outside normal work hours, counts as hours worked. In other words, the act of driving is considered manual labor activity which must be counted as hours worked if it is for the benefit of the employer.
  - If an employee is required to attend meals, social events, etc., that time is counted as hours worked.
  - Time spent waiting at the airport counts as hours worked if it occurs within normal work hours.
If an employee is required to ride as an assistant or helper in an automobile, the travel time counts as hours worked (e.g., if the driver needs an interpreter and the employee as a passenger assists the driver, this time counts as hours worked).

Non-Compensable:

- If completely relieved from work, regular meal periods of no less than 30 minutes do not count as hours worked.
- Riding as a passenger outside of normal work hours, via airplane, train, boat, bus or automobile does not count as hours worked except as noted above for overnight travel and/or travel occurring on one day.
- Sleeping time outside normal work hours does not count as hours worked.

Miscellaneous:

- 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. Employees will be paid for all hours worked or spent traveling during normal business hours and all hours worked outside of normal business hours, regardless of time zone changes.
- 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 (e.g., if the employee’s trip would take approx. 4 hours if he/she flew however because the employee chooses to drive the trip takes 7 hours, the employee would be compensated for the 4 hours the trip would have taken if they had flown).
- 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 (in blocks of 30 minutes or more) when the employee is completely relieved of work and able to use the time effectively for his/her own purposes, even if it occurs within the employee’s regular work schedule (e.g., the employee goes sightseeing instead of attending a session of the conference or the conference sessions are only from 9 to 4).