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Travel Time Compensation: Questions & Answers

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Whether employers must compensate employees for travel time depends largely on the type of travel involved. Wage and Hour rules define four basic categories of employee travel: portal-to-portal travel; travel between worksites; travel on special one-day assignments; and overnight travel. *OAR 839-020-0045*

Portal-to-Portal Travel

Portal-to-portal travel consists of an employee's normal home-to-work and work-to-home travel at the beginning and end of a single work day.

Q. Must an employer pay an employee for regular home-to-work/work-to-home travel?

A. No, unless the employer has created a policy or contract promising pay for such travel. Both the federal Portal-to-Portal Act of 1947 and Oregon law state that normal home-to-work and work-to-home travel need not be compensated.

Travel Between Worksites

A second category of employee travel is travel within a single day between multiple work sites.

Q. Is an employer required to pay an employee for travel time from one job site to another in the course of a day's work?

A. Yes, if the employee must travel to accomplish the day's work. Examples include landscape maintenance employees or appliance repair persons who travel from site to site during the day.

Q. If an employer allows an employee to take a company vehicle home, does the employer have to pay for travel time from home to the job site and vice versa?

A. No, as long as the employee performs no work duties until reaching the first work site. This is considered normal home-to-work/work-to-home travel, and the time needn't be compensated.

Q. If I require my employee to stop at one location at the beginning of the work day to receive instructions or to pick up tools or a company vehicle before reporting to the actual work site, do I have to pay any of the travel time?

A. Yes. The travel from the employee's home to the first location need not be compensated, since it falls under the portal-to-portal rule. But once the employee arrives at the first required location, the employee is "on the clock" and the subsequent travel time is compensable.

Special, One-Day Assignments

The "special one-day assignment" rule applies when an employer requires an employee who usually works at one location to report for a day to an alternate work site in a city over 30 miles away.

Q. I sent an employee from my Portland office to train new-hires at our Salem branch. The employee did not stay overnight in Salem and returned home the same day. Must I pay for the travel time?

A. Yes. Because the one-day assignment was to a city beyond a 30-mile radius of the employee's official work station, the travel time involved is compensable.

Q. My employee frequently works at different locations and doesn't have a fixed official work station. Do I have to pay her time when she travels more than 30 miles to a worksite?

A. No. The "special one-day assignment" rule applies only when an employee has a fixed official work location. Your employee's travel time thus falls under the portal-to-portal rule and needn't be compensated, even when she travels to remote locations for the day.

Overnight Travel

The "overnight travel" category applies whenever travel keeps an employee away from the home community overnight.

Q. When is travel on an overnight trip considered work time that must be compensated?

A. On overnight trips, all the time an employee spends traveling *during normal work hours* must be compensated -- even on weekends. An employer is not legally obligated to compensate for travel time that falls outside of the employee's regular work hours, except when the employee is required to drive.

Example: Chet's regular work schedule is 8:00 a.m. to 5:00 p.m., Monday through Friday. His employer requires him to attend a two-day business conference in Boise, Idaho. Chet travels by bus on Wednesday, from 10:00 a.m. to 4:00 p.m. The employer must pay for these six hours of travel time, since they cut across Chet's normal work hours. Chet returns home by bus on Saturday, traveling from 2:00 p.m. to 8:00 p.m. The employer must pay for the three hours between 2:00 and 5:00 p.m., the travel time which cuts across Chet's normal work hours. This is required even though Chet does not normally work on Saturdays.

Example: Jane's regular work schedule is 8:00 a.m. to 5:00 p.m., Monday through Friday. Her employer sends her from Portland to a work-related weekend convention in Chicago on a Friday night "red-eye" flight from midnight to 5:00 a.m. Since Jane is traveling as a passenger outside of normal work hours, the employer needn't pay for any of the travel time.

Example: Peter, whose regular work schedule is 8:00 a.m. to 5:00 p.m., Monday through Friday, travels by plane to an out-of-state business meeting. The air travel takes place from 12:00 noon to 5:00 p.m. At the airport, Peter is required to pick up a rental car and drive an additional five hours to reach the remote city where the meeting will take place. In this case, the employer must pay for 10 hours of travel time -- the five hours of air travel which cut across Peter's normal work hours, plus the five hours of car travel which fall outside of Peter's normal work hours, since he is required to drive during that time.

Example: Donna normally works the graveyard shift, from 12:00 midnight to 8:00 a.m. Donna's supervisor assigns her to travel to California for a week-long business trip. The supervisor offers Donna a bus ticket for travel from 6:00 a.m. to 2:00 p.m., but Donna chooses to drive her private vehicle instead. In this case, since Donna was offered transportation as a passenger and was not required to drive, the employer may choose to pay Donna for all of the hours she spends driving her car, but is only legally obligated to pay for the two hours of travel from 6:00 a.m. to 8:00 a.m. -- the time that would have been compensable had Donna accepted the bus ticket.

An Overview: When Employers Must Pay Travel Time

Category	Definition	Compensable travel time?
Portal-to-portal travel	Normal home-to-work / work-to-home travel at the beginning and end of one work day.	No
Travel between worksites	Travel in the course of a day's work from one job site to another.	Yes
Special one-day assignment	Employee is sent on a one-day assignment to a city more than 30 miles from the employee's fixed official work station.	Yes
Overnight travel	Travel that keeps an employee away from home overnight.	Yes, whenever travel cuts across an employee's regular work hours (applies seven days per week). No, if the employee is a passenger and travel falls outside of regular work hours. (Travel time must be paid whenever driving is required.)

Q. Is an employer obligated under wage and hour laws to pay employees for per diem expenses (hotel, restaurants, mileage, etc.)?

A. Generally, no. But an employer must cover per diem expenses when requiring the employee to pay them would have the effect of bringing the employee below minimum wage for the pay period. (Minimum wage employees may never be required to pay per diem expenses.)

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

A. Yes, the regular travel rules still apply.

Q. Does the employer have to pay travel time when the employer arranges for a company vehicle to pick up employees and deliver them to the job site?

A. If employees are using such a service for their own convenience and are not required to travel in the company vehicle, this is still considered normal home-to-work/work-to-home travel. The driver of the company vehicle is the only person actually performing work and therefore the only employee to whom travel time pay is due.

Q. May the employer pay a different rate for travel time than for hours worked at the employee's regular rate?

A. Yes, as long as the employer pays at least minimum wage for all hours worked. If an employer intends to pay travel time at a rate lower than the regular hourly rate, the employer should clearly advise employees of the policy in advance.

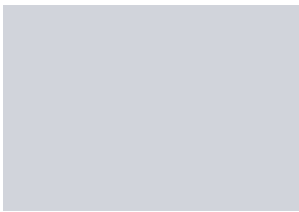
Q. Do compensable travel hours have to be included when calculating overtime?

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.

The Technical Assistance for Employers unit offers employer seminars, handbooks, and other materials covering a number of topics. For additional information, visit our website at www.oregon.gov/boli/ta or call our Employer Assistance line.

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Page updated: December 22, 2009



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