



Wage and Hour Division

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WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

dol.gov/agencies/whd
1-866-487-9283

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WHD Mission

To promote and achieve compliance with labor standards to protect and enhance the welfare of the nation's workforce.

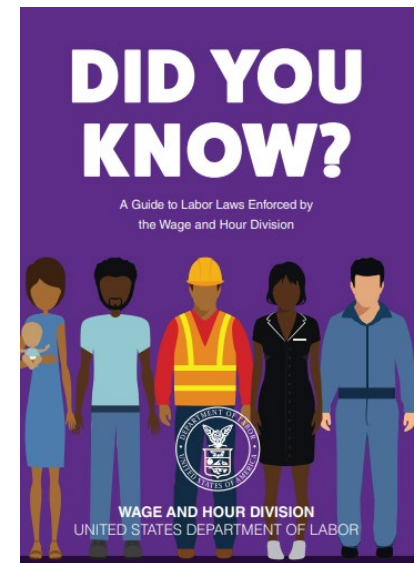


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Laws Enforced by WHD

- ✓ [Fair Labor Standards Act](#)
- ✓ [Family and Medical Leave Act](#)
- ✓ [Temporary Worker Programs](#)
- ✓ [Service Contract Act](#)
- ✓ [Davis Bacon and Related Acts](#)
- ✓ [Employee Polygraph Protection Act](#)
- ✓ [Wage Garnishment Provisions of the Consumer Credit Protection Act](#)
- ✓ [Agricultural Employment](#)



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State and Local Governments Under the **FAIR LABOR STANDARDS ACT**



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Major Provisions



Coverage



Youth
Employment



Minimum Wage



Recordkeeping



Overtime

FLSA Enforcement

Limits of the FLSA FLSA does ***NOT*** require

- Vacation, holiday, severance, sick pay
- Meal or rest periods, holidays off, vacations
- Premium pay for weekend or holiday work
- Discharge notice, reason for discharge
- Limit on number of hours or days employees 16 years or older may work
- Pay raises, fringe benefits

Coverage

The requirements of the FLSA apply to employees of ***public agencies***

The FLSA does not apply to:

- Holders of public elective office
- Elected official's personal staff
- Policy makers appointed by elected officials
- Legal advisors to elected officials
- Volunteers

Fact Sheet #7: State and Local Governments
Under the Fair Labor Standards Act (FLSA)

Minimum Wage



Covered, non-exempt employees must be paid at least the federal minimum wage, in cash or the equivalent, free and clear, for all hours worked

Current federal
minimum wage

\$7.25

Minimum Wage

Compensation includes:

- Wages (salary, hourly and piece rates)
- Commissions
- Certain bonuses
- Tips received by eligible employees up to \$5.12 per hour (where the employer takes a tip credit)
- Reasonable cost of room, board, other “facilities” provided by employer for employee’s benefit

Minimum Wage

Deductions from pay are illegal if:

- Items are primarily for the benefit or convenience of employer, and
- Deduction reduces employee earnings below required minimum wage

Examples of illegal deductions: deductions for tools, damages to property, cash register shortages



FACT SHEET:
Deductions

Minimum Wage

Hours Worked



An employee must be paid for all of the time considered to be “hours worked” under the FLSA.

This may include time spent engaged to wait, on-call, in training, or travelling, as well as sleep time.

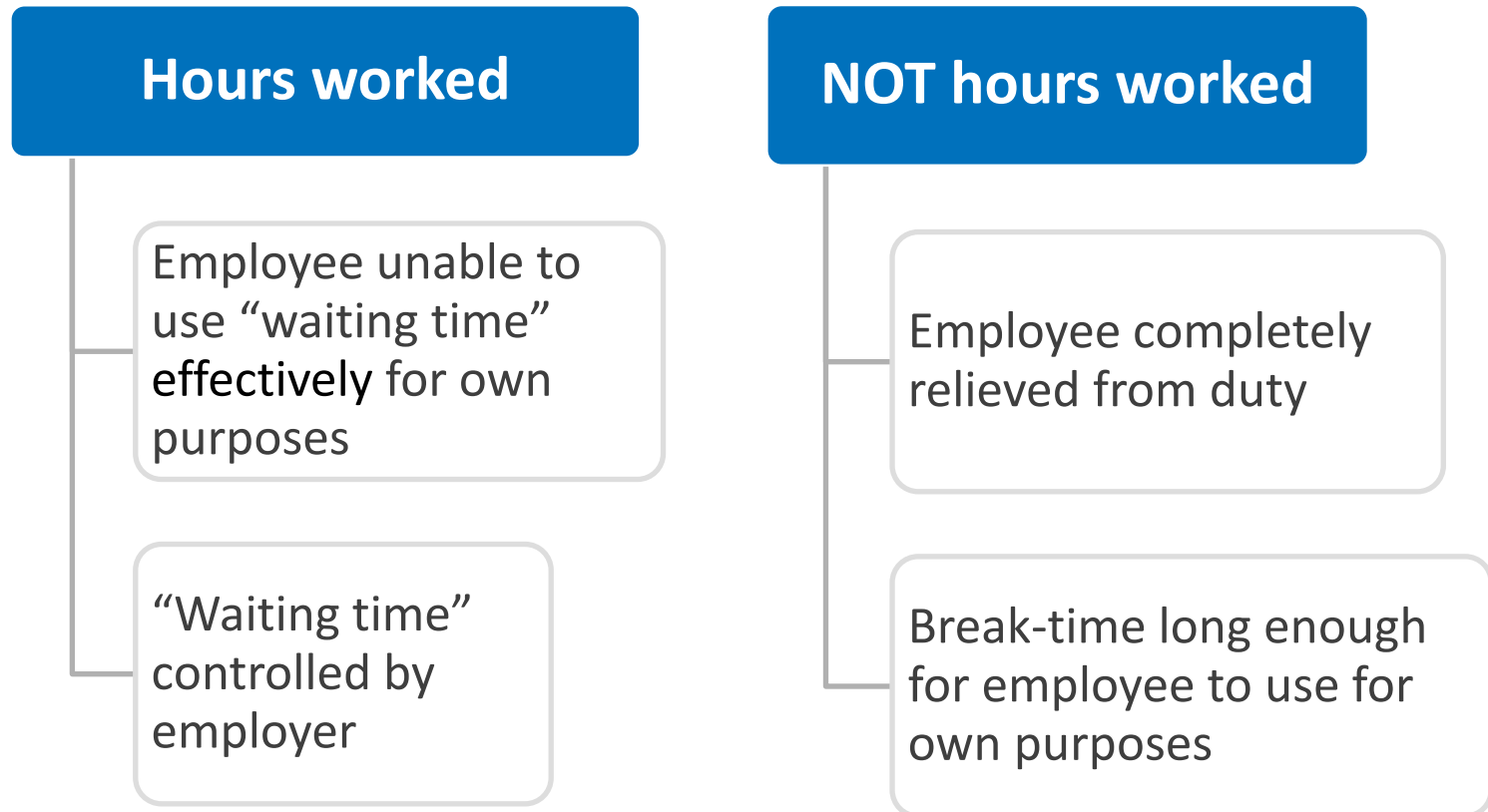
Work not requested but “suffered or permitted” is work time.



FACT SHEET:
Hours Worked

Minimum Wage

Waiting Time



Minimum Wage

On-Call Time

Hours worked

Employee must stay on employer premises

Or, must be so close time cannot be used effectively for own purposes

NOT hours worked

Employee must provide contact information

Can use time effectively for own purposes

Minimum Wage

Rest and Meal Periods

- Short rest breaks (20 min or less) are compensable
- Bona fide meal periods (typically 30 minutes or more) need not be paid as hours worked
- Worker must be completely relieved of duty for meal period not to be compensable time.

Minimum Wage

Training Time

Time spent in meetings, lectures or training is considered *hours worked* and must be paid, unless:

- Attendance outside regular work hours
- Attendance voluntary
- Course, lecture, meeting not job related, ***and***
- Employee does not perform any productive work

Minimum Wage

Travel Time

- Ordinary home to work travel is *not* compensable work time
- Travel between job sites during normal work day *is* work time and thus compensable hours worked
- Special rules apply to travel away from employee's home community

Minimum Wage

Hours Worked Summary and Common Violations

- ***Suffered or Permitted:*** working “off the clock”
- ***Waiting Time:*** engaged to wait
- ***On-Call Time:*** not free from duty or employer control
- ***Meal and Rest Periods:*** not free from duty
- ***Training Time:*** unpaid training during work time
- ***Travel Time:*** unpaid travel between job sites
- ***Sleep Time:*** deduct for sleep in less than 24-hour shift

Overtime



Covered, non-exempt employees must receive one and one-half times their regular rate of pay for all hours worked over forty in a workweek

All time that is hours worked must be counted when determining overtime hours worked.



FACT SHEET:
Overtime

Overtime

Regular Rate and Premium Pay for OT Hours

STEP 1: Total compensation paid in a workweek
(minus statutory exclusions) divided by
total hours worked in the workweek

$$\text{Total Compensation} \div \text{Total Hours} = \text{RR}$$

STEP 2: $\text{RR} \times .5 = \text{Half-time Premium Pay per OT Hour}$

STEP 3: (Half-time) Premium Pay Rate x Overtime Hours in
the Workweek = Overtime Compensation Due

Overtime

Exemptions

There are numerous exemptions from the minimum wage and/or overtime standards of the FLSA

One of the most common FLSA minimum wage and overtime exemptions is for executive, administrative or professional employees, and is often called the “**White Collar**” or “**EAP**” exemption

“White Collar” Exemptions

Three Tests for the “White Collar” Exemptions



Fact Sheet #17A: Exemption for Executive, Administrative, Professional, Computer & Outside Sales Employees Under the Fair Labor Standards Act (FLSA)
| U.S. Department of Labor (dol.gov)

“White Collar” Exemptions



Section 13(a)(1) of the FLSA provides an exemption from both minimum wage and overtime pay for employees who are employed in a bona fide:

- Executive;
- Administrative;
- Professional; or
- Outside Sales capacity

Certain Computer Employees



Certain computer employees may be exempt professionals under Section 13(a)(1) or exempt under Section 13(a)(17) of the FLSA.

Exemption for certain computer employees

Minimum Salary Level



For most employees, the minimum salary level required for exemption is **\$684 per week**

Must be paid “free and clear”

The \$684 per week may be paid in equivalent amounts for periods longer than one week:

Biweekly: \$1,368

Semimonthly: \$1,482

Monthly: \$2,964

Fact Sheet #17G: Salary Basis Requirement and the Part 541 Exemptions Under the Fair Labor Standards Act (FLSA)

Salary Basis

Salary Basis Test

- Regular, predetermined amount of compensation paid each pay period, on weekly or less frequent basis
- Compensation cannot be reduced due to variations in quality or quantity of work performed
- Compensation not required for any workweek when no work performed



Salary Basis Exception

Special Exception for State and Local Government Employees

- Hourly deductions required by state or local law may be made from a salaried employee's pay
- The employee is still exempt from overtime so long as her duties meet all other requirements

Overtime

Exemptions from Overtime Only

- Substitution
- Occasional or sporadic part time employment

Overtime

Common Overtime Violations

- **Regular Rate:** Failure to include production bonuses, shift differentials, piece rates in determining the regular rate for calculating OT compensation due
- **Combined hours, rates for dual jobs:** Failure to combine all hours in dual jobs or multiple sites of single employer
- **Tipped Employees:** Failure to calculate correct cash OT payment

Overtime

Common Overtime Violations

- **“White Collar” Exemptions:** Misapplication of exemption, or improper assumption that all salaried employees are exempt
- **Deductions:** Improper deductions in OT weeks
- **Misclassification:** Improper treatment of employee as independent contractor
- **Hours worked:** Failure to record, pay for all hours worked
- **State Law:** Confusion between state and federal law

Compensatory Time

Employees of State or local government agencies may receive compensatory time off instead of cash overtime pay at a rate of not less than one and one-half hours for each hour of overtime worked

Compensatory Time

Compensatory Time Limits

Limited to 480 hours for:

- Law enforcement
- Fire protection
- Emergency response personnel
- Employees engaged in seasonal activities

Limited to 240 hours for all other employees

Compensatory Time

Compensatory Time Pay Out

When a State or local government employee terminates employment, she must receive cash for the balance of her compensatory time

Youth Employment



Federal youth employment rules set both hours and occupational standards for youth



FACT SHEET:
Youth Employment

Youth Employment

Resources

- Updated presentation for educators, minors, and parents.
(Spanish)
- YouthRules! resources, guide to dangerous and prohibited jobs,
and short video series
- Digital child labor flyer (Spanish)
- If you know, or observe indicators, that youth may be illegally employed, contact the Wage and Hour Division at 1-866-487-9243 or online.

Youth Employment

Know Your Rights flyer English/Spanish



KNOW YOUR RIGHTS

Tips for students with after school or summer jobs

<h4>Age 14 or 15</h4> <p>You may work in specific jobs, including:</p> <ul style="list-style-type: none">• Most office and retail jobs• Most restaurant and fast food jobs serving customers• Properly certified 15 year-olds can work as lifeguards <p>You may work outside school hours:</p> <ul style="list-style-type: none">• Between 7 AM and 7 PM (until 9 PM from June 1st-Labor Day)• No more than three hours on any school day (including Fridays)• No more than 18 hours in any school week• No more than eight hours on any non-school day• No more than 40 hours in any non-school week	<h4>Age 16 or 17</h4> <p>You may work any hours in any job not prohibited by law.</p> <p>Dangerous jobs you may not work include:</p> <ul style="list-style-type: none">• Driving or helping a driver• Operating most power-driven machines, including grinders, mixers, saws, wood chippers, cutting machines, compactors and balers• Operating forklifts, skid-steers, or other power-driven hoisting equipment• Using or cleaning power-driven meat processing machines (such as meat slicers)• Working most jobs in meat and poultry slaughtering and packing plants• Roofing• Excavation	<h4>Different Rules for Work on Farms</h4> <h5>Age 14 or 15</h5> <ul style="list-style-type: none">• You may work in specific jobs outside school hours• You may not work in certain farm jobs prohibited by law as dangerous <h5>Age 16 or 17</h5> <ul style="list-style-type: none">• You may work in any farm job at any time <p>You may work on your family's farm at any age doing any job at any time</p> <p>Federal law restricts the hours and jobs young workers may work, but federal minimum wage and overtime rules apply equally to all workers.</p> <p>Your state, city or county may have different employment laws. Employers must follow the law giving the greatest protection to young workers. Visit youthrules.gov for more information.</p>
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Visit youthrules.gov for more information and resources



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Scan for more details
Including the complete
list of jobs youth **may**
and **may not do**

Recordkeeping



- All employers subject to any provision of the FLSA must make, keep, and preserve certain records
- Time clocks are not required and records need not be kept in any particular form
- Every covered employer must keep basic records for each worker, with additional requirements for non-exempt workers



FACT SHEET:
Recordkeeping
Requirements

Recordkeeping

Compensatory Time Records

State and local government employers must also keep specific records documenting compensatory time records and work periods

Online Resources

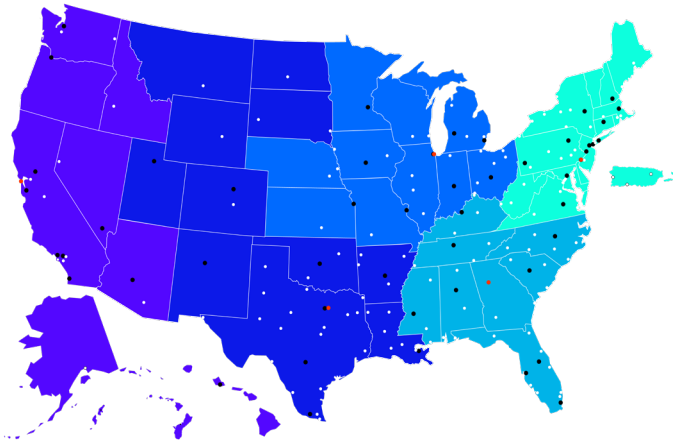
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Contact Us



- Contact your local [CORPS - Community Outreach Resource Planning Specialists](#)
- Visit us at: [WHD Local Offices](#)
- Call the WHD toll-free information & helpline at:
[1-866-4US-WAGE](#)
[\(1-866-487-9243\)](#)



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Conclusion



THANK YOU!



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