

**Basis for guidelines: Fair Labor Standards Act (FLSA)**

**Purpose of Guidelines**

These guidelines provide for the accurate understanding and consistent administration of the University's obligations pertaining to the employee rights conferred under the Fair Labor Standards Act (FLSA). The FLSA **establishes guidelines and rules for those jobs which are "non-exempt" from the regulations:**

- the keeping of time records
- the payment of overtime
- the minimum wage
- New rules published April 23<sup>rd</sup>, 2004
- Defining who is "exempt" and who is "non-exempt" from the regulations

Specifically addressed in these guidelines are the conditions and approach for accurate accounting of and pay for the hours worked by employees who are in positions designated as "Non Exempt" when they are traveling on university business.

**Applicability**

These guidelines apply to those University Staff, Classified Staff and Wage employees who are in positions which by virtue of the primary duties and responsibilities of the positions have been designated as "Non Exempt" – not exempt from the rights conferred on them by the Fair Labor Standards Act.

**DEFINITIONS**

1. **Regular Working Days:** The employee's regularly scheduled working days; typically Monday through Friday, or, as otherwise practiced in the work unit. Applies to the relevant time zone(s) through-which and/or to-which the employee is traveling.
2. **Regular Working Hours:** The employee's regularly scheduled working hours, typically 8:00 a.m. through 5:00 p.m., or, as otherwise practiced in the work unit. Applies to the relevant time zone(s) through-which and/or to-which the employee is traveling.
3. **Non Working Days:** Those days which are **not** Regular Working Days, typically Saturday and Sunday.
4. **Working Time:** Time which will be accounted for as those hours for which the employee will be compensated.
5. **Home to Work Travel:** Travel between an employee's home and the regular work location. This time is **not** compensable to the employee.

### DEFINITIONS (continued)

6. **Travel Status** – the process of being in-transit to and/or from a destination where work will be performed.
7. **Working Travel Time:** Time during **Travel Status**, which will be accounted for as those hours for which the employee will be compensated.
8. **Day Travel:**
  - Ground / Day trip** – Time spent traveling by ground transportation (bus, train, automobile) to an assignment in another city/town and returning home during the same day.
  - Air / Day trip** – Time spent traveling by air transportation (airplane, helicopter, etc) to an assignment in another city/town and returning home during the same day.
9. **Away Travel:**
  - Ground / Away trip** -- Time spent traveling by ground transportation (bus, train, automobile, etc.) to an assignment in another city/town which keeps the employee from home overnight; returning home on a subsequent day.
  - Air / Away trip:** Time spent traveling by air transportation (airplane, helicopter, etc.) to an assignment in another city/town which keeps the employee away from home overnight; returning home on a subsequent day.
10. **Normal Meal Time:** The prescribed time during the employee's Regular Working Hours which is allocated as Non-Working Time (unpaid) for meals.
11. **Principal Activity:** The primary duty(ies) or tasks of the employee's job for which the employee will be compensated.
12. **Incidental Activity:** Those activities performed by the employee which are related to the Principal Activity(ies) of the job regardless of when they occur, and include, among others, civic and charitable activities, equipment maintenance, shift changes, time spent on grievances, medical treatment, pre-employment activities, rest periods, on-call time, training and waiting time.
13. **Deliberate Ignorance:** When an employer knows *or has reason to believe* that an employee is continuing work after Regular Work Hours, and/or Regular Work Days. Does not exempt the employer from liability to compensate the employee for those working hours, regardless of whether such time is recorded.

## ACCOUNTING FOR WORKING TRAVEL TIME

1. Any time spent while in **Travel Status** where the employee is performing **Principal Activities** or related **Incidental Activities** will be accounted for as **Working Travel Time**, whether or not on a **Regular Working Day**, and regardless of the time of day those activities are being performed.
2. All time spent while in **Travel Status** that **coincides** with the employee's **Regular Working Hours**, whether or not it occurs on a **Regular Working Day**, less, the employee's normal **Home to Work Travel Time**, is accounted for as **Working Travel Time**.
3. Time spent while in **Travel Status**, which **does not coincide** with the employee's **Regular Working Hours**, will be accounted for according to the type of trip (Day or Away) and mode of travel:
  - a) **Ground/Day** trip – All time spent (less the employee's normal **Home to Work Travel**) is considered **Working Travel Time**, whether the employee is a passenger or the driver.
  - b) **Ground/Away** trip – All time spent while driving (less the employee's **Home to Work Travel**) **is** considered to be **Working Travel Time**. If the employee is a passenger, then this time **is not** accounted for as **Working Travel Time**.
  - c) **Air / Day** trip – *As passenger* – **is** considered **Working Travel Time**.
  - d) **Air / Away** trip-- *As passenger* – **not** considered **Working Travel Time**.