

# Complying With Wage and Hour Law

## What is Work?

### **When does an employer have to pay an employee for work?**

*The simplest answer is that an employer always has to pay an employee for work completed. There is no such thing as volunteer time for non-exempt employees. This includes when an employee comes in early, leaves late, completes any work during a break, comes in to work when the business is closed, or takes work home to complete regardless of whether that employee is “punched in” or not. Further, if a non-exempt employee exceeds 40 hours in a 7-day work week, the employer must pay her/him overtime pay of at least 1 ½ times their regular rate of pay. Employers must establish this 7-day work week and, once established, it cannot change.*

### **Are employers required to give employees breaks?**

*While offering breaks (either paid or unpaid) is certainly good business practice, it is not required. However, if you choose to give breaks, the following rules apply. Breaks given that are 20 minutes or less in duration must be counted as time worked and therefore must be paid. Breaks for meals that are 30 minutes or longer in duration do not need to be paid as long as the employee completes no work during the break. There is no limit to the number of hours an employee can work in a work week as long the employer pays them according to the law.*

### **Do I have to pay my employees when they attend conferences and training?**

*If the following four criteria are met, then the employer does not have to pay employees for time spent at conferences and in training: 1) it is outside normal hours 2) it is voluntary 3) not job related and 4) no other work is concurrently performed. Because most of the conferences or training an employer might send an employee to are job-related and sometimes are not voluntary, the employer would most likely be responsible for paying an employee for time spent in these activities as well as for the travel time to get to and from these activities.*

### **When determining what constitutes work time, it is important to remember:**

- *Non-exempt employees must be paid for any work completed whether they are “on the clock” or not. This includes working from home, working during breaks, coming in early and staying later than scheduled.*
- *When giving breaks to employees, they must be paid if the break is 20 minutes or less or if they complete any work during the break.*
- *Employees must be paid for any meeting or training that is required by the employer. If such activities cause the employee to work more than 40 hours in a work week, they must be paid overtime pay for the hours in excess of 40.*

**For more information or specific questions concerning work time, please contact:**

US Department of Labor, Wage and Hour Division  
1-866-4-USWAGE (toll-free)  
[www.dol.gov/esa/whd](http://www.dol.gov/esa/whd)

