

HR COMPLIANCE OVERVIEW

Meal Periods and Rest Breaks Under the FLSA

Ensuring proper management of employee meal periods and rest breaks is a critical component of workplace compliance. Under the Fair Labor Standards Act (FLSA), employers are required to comply with federal requirements governing meal periods and rest breaks for purposes of compensable work time. Although the FLSA does not mandate that employers provide meal periods or rest breaks, it does establish clear rules for when and how breaks must be paid when they are offered.

This Compliance Overview provides a general overview of federal meal period and rest break requirements, including when breaks must be counted as compensable time, common compliance challenges, and best practices for meal period and rest break compliance.

While many states impose additional break time requirements beyond federal law, this Compliance Overview focuses on FLSA requirements that apply nationwide and serves as a starting point for understanding how meal and rest period practices intersect with federal wage-and-hour compliance.

Highlights

The FLSA **does not require** employers to provide meal periods or rest breaks to their employees. However, if employers choose to provide meal and rest breaks, they must meet the following requirements:

- **Bona fide meal periods** are not compensable if they are 30 minutes or longer and the employee is completely relieved from duty and not interrupted by work; and
- Employers that provide **rest periods** of five to 20 minutes to their employees must count the entire period as compensable.

LINKS AND RESOURCES

- DOL's Break and Meal Periods [website](#)
- DOL [Fact Sheet #22](#): Hours Worked Under the FLSA
- WHD's [Questions and Answers About the FLSA](#)

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Overview of Compensable Time Under the FLSA

The FLSA requires covered employers to pay nonexempt employees at least the current federal minimum wage for all hours worked and overtime pay at 1.5 times their regular rate of pay for any hours worked over 40 during a workweek. To properly compensate employees, employers must determine the number of hours worked.

The FLSA also requires employers to pay employees for all hours they are **“suffered or permitted to work.”** These hours are known as work hours or compensable time. **Compensable time** includes all hours during which an individual is actually performing productive work and all hours an employee is required by their employer to remain available for the next assignment. This includes any time employees work that is not requested, authorized or scheduled where the employer knows or has reason to know the work is being performed. For example, if an employee voluntarily continues to work at the end of their shift to finish an assigned task or to correct hours, that time is considered work hours and is compensable. Compensable time does not include periods where an individual is relieved of all obligations and is free to pursue their own interests.

To determine how much of an employee’s time is compensable time, employers must determine whether the employee is on duty or engaged in principal activities. Failing to comply with the FLSA’s meal period and break time requirements can have significant repercussions for employers. The FLSA’s meal period and rest break standards are enforced by the Department of Labor’s (DOL) Wage and Hour Division (WHD).

Meal Periods and Breaks

The FLSA does not require employers to provide meal periods or rest breaks for their employees. However, many employers do provide meal periods and/or rest breaks. For example, breaks of short duration, from five to 20 minutes, are common in many workplaces. If an employer chooses to provide meal periods or rest breaks, the employer must comply with the FLSA’s meal periods and rest breaks requirements. As a general rule, rest breaks are considered hours worked, but bona fide meal breaks are not.

Many states and localities have laws requiring employers to provide meal periods and rest breaks. These requirements prevail over the FLSA’s silence on the subject. When an employee is subject to both federal and state law, the employee is entitled to the most beneficial provisions of each law.

Meal Periods

In general, bona fide meal periods are not compensable if they are 30 minutes or longer and the employee is completely relieved from duty and not interrupted by work, even for a short time. However, a period shorter than 30 minutes may be long enough under special conditions.

Employees are not completely relieved of all duty if they are required to perform any duties, whether active or inactive, while eating. For example, an office employee who remains at their desk while eating lunch, regularly answers the telephone (even if no calls are actually received), responds to customers and refers callers is working. Similarly, a factory worker who is required to watch their machine while eating is working and is not completely relieved from duty. This time must be counted and paid as compensable hours worked because the employee has not been completely relieved from duty. The hours an employee is on duty are compensable because the employer effectively controls the employee’s time, even when waiting is part of the job or when the employee is allowed to use the time for their own purposes. Additionally, employers may need to count interrupted meal breaks as hours worked and compensate their employees accordingly.

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However, permission to leave the employer's premises during the meal break is not required for an employee to be relieved of all duties.

Rest Periods

Even though they are not required by the FLSA, employers that provide rest periods of five to 20 minutes to their employees must count the entire length of the rest period as compensable time. This includes short periods that employees are permitted to spend away from the worksite for any reason, including:

- Coffee or soft drink breaks;
- Smoke breaks;
- Restroom breaks;
- Personal telephone calls; or
- Personal visits.

Compensable time for rest periods cannot be offset against waiting or on-call time.

Unauthorized extensions of authorized work breaks do not need to be counted as hours worked when the employer has expressly and unambiguously communicated to the employee that:

- The authorized break may only last for a specific length of time;
- Any extension of the break is contrary to the employer's rules; and
- Any extension of the break will be punished.

Enforcement and Penalties

The WHD enforces federal minimum wage, overtime pay, recordkeeping and child labor requirements of the FLSA. Generally, the WHD will initiate an audit after a current or former employee files a complaint or during a routine investigation. A WHD auditor may visit an organization to conduct interviews, examine time clocks and ensure that all employment notifications are available to employees. The auditor may also review up to three years of wage and hour records to determine whether there are any violations in an employer's payroll practices.

In addition to complaints, the WHD selects certain businesses and industries for investigation. For example, the WHD often targets low-wage industries due to high rates of violations, the employment of vulnerable workers and rapid industry changes, such as growth or decline. Occasionally, several organizations in a specific geographic area will be examined.

While the FLSA does not mandate that employers provide meal periods or rest breaks, the law requires employers to pay for rest breaks or if employees are required to work bona fide lunch periods. Employees may pursue unpaid wages by filing a lawsuit or bringing an administrative claim before the DOL. Claims may be filed for up to two years for nonwillful violations and three years for willful violations. Under the FLSA, employees who are not paid minimum wage, overtime compensation or both may be awarded back pay for time worked during designated breaks, liquidated damages, and attorney fees and costs. Employers that willfully or repeatedly violate the FLSA's minimum wage or overtime laws, including failing to pay for breaks, may also be subject to civil money penalties.

Common Meal Period and Rest Break Compliance Challenges

Complying with the FLSA's meal period and rest break requirements presents certain challenges for employers. Problems arise when employers fail to recognize and count certain hours as compensable. Many compliance risks arise through day-

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to-day operational practices. For example, an employee who remains at their desk while eating lunch and regularly answers the telephone and refers callers is working. This time must be counted and paid as compensable hours worked because the employee has not been completely relieved from duty. The following are common compliance challenges employers face when providing meal periods and rest breaks under the FLSA.

Employees Working Through Unpaid Meal Periods

One of the most common challenges employers face when complying with the FLSA's break time requirements is employees performing work during unpaid meal periods, even briefly. Under the FLSA, any interruption or duty performed during a meal break can convert break time to compensable work. This includes responding to calls, emails or questions during what should be an unpaid, uninterrupted break period. These interrupted breaks can generate significant wage-and-hour liability when not recorded as work time. In some instances, employers may be required to compensate employees for the entire meal period when an employee's meal period is interrupted by work, not just for the time during which work was performed.

Inconsistent Break Practices Versus Written Policies

Employers may maintain compliant written meal period and rest break policies, yet managers and supervisors may apply them inconsistently. For example, supervisors may discourage breaks during busy periods or fail to enforce uninterrupted meal periods. This gap between an organization's written policies and actual practice is a frequent source of FLSA violations.

Automatic Deduction for Meal Breaks

Many organizations use time and attendance tracking systems. These systems often deduct 30 minutes for a meal period, regardless of whether the employee actually took it or remained responsible for work-related tasks during their break. If employees work during an auto-deducted meal period, the employer risks unpaid wage claims and recordkeeping violations under the FLSA.

Recordkeeping and Documentation Errors

Accurate timekeeping is essential to comply with the FLSA's meal period and break time requirements. However, employers frequently face issues of incomplete time records, inaccurate time stamps for breaks or a lack of documentation confirming that employees were fully relieved of duty during breaks. Poor recordkeeping practices increase an employer's exposure to FLSA claims and violations. Even minor violations can lead to significant back pay awards under the FLSA.

Misalignment With Federal and State-specific Break Requirements

Employers often struggle to implement break policies that comply with both federal and state meal period and break time requirements. This problem is often made more challenging for employers operating in multiple states, as state meal period and break time laws vary widely. Employers that fail to follow the meal period and break time requirements that provide the most protection for employees in the states where they operate can create significant compliance risks for their organizations.

Meal Period and Rest Break Best Practices

Implementing strong, consistent break-time practices is essential for reducing wage-and-hour risk, maintaining accurate payroll records and supporting employee well-being. The following best practices can help employers align their organizational practices with FLSA meal period and rest break requirements and avoid costly litigation and claims.

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Establish Clear, Legally Aligned Written Policies

Employers should adopt clearly written workplace policies outlining their meal period and rest break practices. It's important that employer policies distinguish paid short breaks from unpaid meal periods, ensuring they align with FLSA requirements, including compensating for breaks of between five and 20 minutes and guaranteeing that employees are fully relieved of all duties during unpaid meal periods. These policies should address requirements such as clocking out before unpaid breaks, clocking back in before performing any work, and obtaining supervisor or manager approval before taking breaks. Employers can also implement a process for employees to certify the time they work and any meal periods or rest breaks they take or are made available to them. Employers can incorporate employee certification forms into their timekeeping policies and procedures to help document compliance with FLSA meal period and rest break requirements. If employers are subject to state or local meal period and rest break laws, their policies should also reflect applicable state requirements, which may mandate break length, timing or premium pay for missed breaks.

Train Supervisors to Enforce Break Policies Consistently

Training managers and supervisors regarding meal period and rest break requirements is essential for organizational compliance with the FLSA. Managers and supervisors must understand that employees cannot perform any job-related duties during unpaid meal breaks and that interrupted or "on-duty" meal periods can convert those periods into compensable time. Employers should instruct managers and supervisors not to require or encourage employees to work during meal periods or rest breaks. Training should also emphasize that discouraging employees from taking permitted or required breaks—directly or indirectly—can lead to significant wage-and-hour liability, especially in states with mandatory break laws.

Implement Reliable Timekeeping Systems

Some employers may use time and attendance tracking systems that automatically clock out employees for meal periods, even if the employee is still working or is not completely relieved of all duties and remains responsible for work-related tasks during that time. Auto-deducting without verification is a well-documented compliance risk, which can result in FLSA wage and recordkeeping violations. Employers should use accurate timekeeping systems that track start and end times for meal periods, avoiding automatic deductions unless there is a process to verify that breaks were actually taken. Employers should also regularly audit time records to ensure employees are not routinely working through unpaid break periods.

Prevent Work During Unpaid Breaks

To avoid potential FLSA violations, employers should ensure employees can truly disconnect from all job duties during unpaid meal periods, especially workers who remain at their desks during breaks and may receive emails, messages or calls. Under the FLSA, even brief interruptions make the unpaid break time compensable. Additionally, some courts have held that when meal periods are interrupted by work, even for a short time, the entire meal period, not just the time when work was performed, is compensable. Employers should implement systems that minimize interruptions, such as redirecting calls or adjusting coverage staffing during meal periods. Special consideration may be needed for remote and hybrid workers to ensure they do not perform any work during meal periods.

Monitor Break Compliance and Address Problems Promptly

Employers avoid potential FLSA meal period and rest break violations by monitoring organizational compliance with these requirements and addressing any issues promptly. Employers should regularly review time records and operational demands to ensure that employee breaks occur as scheduled. If employees routinely miss or postpone breaks due to

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workload, operational adjustments may be necessary. Employers remain responsible for ensuring breaks occur, even when employees attempt to skip them and continue working. However, some employers allow employees to waive break periods. If employers permit employees to waive mandated breaks, it's vital that they document employee waivers to demonstrate that the waiver was voluntary, mutual and met any legal requirements.

Employers should also conduct periodic internal audits to identify patterns such as shortened breaks, on-duty meal periods or inconsistent supervisor practices. If any issues are discovered, corrective action may include revising policies, providing training or improving staffing levels to allow uninterrupted break time. Additionally, soliciting employee feedback can help employers identify operational barriers to employees taking breaks and refraining from work during break time.

Stay Current on Meal Period and Rest Break Requirements

Employers should stay up to date on FLSA meal period and rest break requirements to remain compliant. Additionally, state meal period and rest break laws can vary widely and change periodically. Therefore, employers must stay informed about the laws in each jurisdiction where their employees work and review them regularly. Employers must follow the meal period and rest break requirements that provide the greatest protection to employees.

Employer Takeaway

Employers that fail to properly compensate their employees for all hours worked may face costly legal penalties under the FLSA. Therefore, employers should ensure they understand and comply with the FLSA's compensable time requirements.