

Staff Travel Time

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](http://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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Whether travel time is compensable or not depends entirely on the kind of travel involved. Under the Portal-to-Portal Act, the employer generally is not responsible for time spent by the employee in walking, riding, or otherwise traveling to and from the actual place of performance of the principle activities. 29 U.S.C. § 254(a). Excluding normal commuting time, the general rule is that employees should be compensated for all travel unless it is overnight, outside the regular working hours, on a common carrier, or where no work is done. Generally, an employee is not at work until he or she reaches the work site.

An employee who drives a police car home does not have to be compensated for commute time simply because he or she is operating the employer's vehicle, so long as it is for the employee's convenience. *Field Operations Handbook* § 31c01. According to the Wage and Hour Letter, April 13, 1995, an employee does not have to be compensated if all of the following conditions are met:

- Driving the employer's vehicle between the employee's home and the work site is strictly voluntary and not a condition of employment;
- The vehicle involved is the type of vehicle that would normally be used for commuting;
- The employee incurs no cost for driving the employer's vehicle or parking it at home; and
- The work sites are within the normal commuting area of the employer's establishment.

In certain rare emergency situations, the regulations (29 C.F.R. § 785.36) provide that an employee must be compensated for home-to-work travel time. Generally, if an employee, after completing a day's work, is called at home and must travel a "substantial distance" to perform an emergency job, the travel time is compensable.

Out-of-town travel is a bit more complicated because DOL takes the position that out-of-town travel is not ordinary home-to-work travel. Because the travel is performed for the employer's benefit and at the employer's request, the employee must be compensated. Not all the travel, however, needs to be counted as hours worked. DOL specifically permits the employer to exclude the travel time between the employee's home and an airport, bus, or railroad station. 29 C.F.R. § 785.39.

The regulations provide that travel time is compensable work time when it occurs during the employee's regular working hours. DOL does not count as working time overnight travel that occurs outside of regular working hours as a passenger on an airplane, train, boat, bus, or car and where the employee is free to relax. 29 C.F.R. § 785.39. If an employee is required to drive or required to ride while another employee drives, the employee must be compensated for the travel time (29 C.F.R. § 785.41) except when the employee is on a bona fide meal break.

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