



## Wait Time

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Dear Reader:

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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,

The University of Tennessee  
Municipal Technical Advisory Service  
1610 University Avenue  
Knoxville, TN 37921-6741  
865-974-0411 phone  
865-974-0423 fax  
[www.mtas.tennessee.edu](https://www.mtas.tennessee.edu)

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Whether waiting time is compensable depends on the particular circumstances. The FLSA requires compensation for all time during which employees are required to wait while on duty or performing their principle activities. 29 C.F.R. § 785.15. This is particularly true where waiting periods are of such short duration that employees cannot use them for their own benefit.

Under the regulations (29 C.F.R. § 785.16), waiting time by an employee who has been relieved from duty need not be counted as hours worked, if:

1. The employee is completely relieved from duty and allowed to leave the job; or
2. The employee is relieved until a definite, specific time; and
3. The relief period is long enough for the employee to use the time as he or she sees fit.

A police officer waiting to testify in a court case, a detective waiting for a witness to arrive to be interviewed, and an officer waiting for a tow truck to arrive are all working during their periods of inactivity. The rule also applies to an employee who works away from the employer's premises. Employees who wait before starting their duties because they arrived at the work place earlier than the required time are not entitled to be paid for the waiting time as long as the employee does not engage in work activity during that time.

DOL has defined "off duty" as:

[P]eriods during which an employee is completely relieved from duty and which are long enough to enable the employee to use the time effectively for his/her own purpose are not hours worked. The employee is not completely relieved from duty and cannot use the time effectively for his/her own purposes unless the employee is definitely told in advance that he or she may leave the job and that the employee will not have to commence work until a specified hour has arrived. DOL W.H. Publication 1459 (May 1985).

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