



## Staff Breaks and Meals

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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,

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Break periods, such as lunch or dinner meals or rest periods, may or may not be compensable depending on whether the employee is completely relieved from duty and the amount of time allocated for the activity. The FLSA does not require that employees be given rest periods, 29 C.F.R. § 785.18, but if rest periods are provided, they must be counted as hours worked if they last 20 minutes or less [*Mitchell v. Turner*, 286 F.2nd. 105 (5th Cir. 1960; *Mitchell v. Grienez*, 235 F.2nd. 621 (10th Cir. 1956); and *Aeromotive Metal Products, Inc. v. Wirtz*, 312 F.2nd 728 (9th Cir 1963)]. Coffee and snack breaks are compensable rest periods and cannot be excluded as meal periods from hours worked. Whether rest periods that last longer than 20 minutes are compensable depends upon an employee's freedom during breaks.

A bona fide meal time, when the employee is completely relieved from duty, is not work time. 29 C.F.R. § 785.19. Short periods, such as coffee or snack breaks, are not considered meal time. Of course, if an employee works during the meal, the time is compensable. Whether or not an employee's meal period can be excluded from compensable working time depends on the employee "freedom meal test." 29 C.F.R. § 785.19.

Unless all of the following three conditions are met, meal periods must be counted as hours worked:

1. The meal period generally is at least 30 minutes;
2. The employee is completely relieved of all duties. If the employee must sit at a desk and incidentally answer the telephone, as a dispatcher might often do, this would be compensable time; and
3. The employee is free to leave his or her duty station. There are no requirements, however, that the employee be allowed to leave the premises or work site.

Meal time spent out of town on business trips, such as at out-of-town training programs, is not generally compensable time. 29 C.F.R. § 785.39. If, however, an employee works during the meal, such time is compensable.

Any volunteer work done during meal periods must be counted as compensable working time if the employer knows or has reason to believe the work is being performed. If the employer does not know of the work, and the employee's work during meal time is essentially de minimis, no compensation is required. *Baker v. United States*, 218 Cl. Ct.602 (1978).

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