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Pay for Training Time – What is Compensable? FLSA Requirements

The Administrator of the Wage and Hour Division has determined that attendance at meetings, lectures, training programs, and similar activities need not be counted as working time if the following criteria are met:

- a. Attendance is outside the employee's normal working hours;
- b. Attendance is voluntary;
- c. The course, lecture or meeting is not directly related to the employee's job; and
- d. The employee does not perform any productive work during such attendance.

What does this mean?

Pay for training should be provided under the following common scenarios if the above criteria are not met:

1. "Lunch and Learn"
2. "In service"; "grand rounds"
3. "It's best if you attend..."
4. "Makes me better at my job..."
5. Exception: An employer may elect NOT to pay for training time for state mandated classes to keep a required certification if certain criteria are met. Refer to the following DOL Opinion Letter for more information - http://www.dol.gov/esa/whd/opinion/FLSA/2009/2009_01_07_01_FLSA.htm

Here is a summary of the decision in the Opinion Letter.

In another decision, FLSA2009-1, the DOL found that time spent by childcare employees in state-mandated training programs offered by the employer and required by the employer as a condition of maintaining the employee's state certificate, was not hours worked under the FLSA. This opinion turned on an important exception to the requirement that the training not be directly related to the employee's job. As the DOL recognized, where the training is for the benefit of the employee and corresponds to courses offered by independent bona fide institutions of learning, voluntary attendance by the employee outside normal working hours is not hours worked even though the training is clearly related to the employee's job. In this case, the DOL found that the employees were not required to take the employer's particular training class so long as they take a class to keep up their state certification. Accordingly, while the state certification was mandatory, the particular training was not. The DOL wrote that childcare training is for the benefit of the employees when it provides instruction of general applicability that enables an individual to gain or continue employment with any childcare service provider.