

Department of Labor Wage & Hour Requirements

Human Resources and Development shared the information listed below with all DHHS employees. This served as notice of the legal requirements from the Department of Labor Wage & Hour Division concerning the recording or reporting of time worked by overtime eligible employees (referred to as non-exempt employees).

Employee Requirements

- All overtime eligible employees must report their work hours exactly as they occurred. DHHS employees should report their work time using the prescribed method of time reporting for their particular division or section.
- All overtime eligible employees need supervisory permission prior to working overtime unless there is an emergency or special circumstance.
- Overtime eligible employees are not allowed to “volunteer” to perform extra work without compensation. All work time must be reported and compensated even if it was not approved in advance.
- Most DHHS employees are granted a 30-minute or 1-hour unpaid meal break during each work shift. Overtime eligible employees are not allowed to perform work during this unpaid meal break without prior supervisory approval. If work is performed, the meal break is considered work time and must be reported and compensated as such.
- Overtime eligible employees who are on-call or who receive work phone calls during their off hours are responsible for tracking time spent on these calls. Time spent must be reported and compensated even if it was not approved in advance.
- Time spent preparing to begin or end work, such as turning on equipment or donning gear, is considered work time for overtime eligible employees and must be reported and compensated.

As a supervisor, you are required to ensure your employees are in compliance with these requirements. Please discuss these requirements with your employees and clearly outline your expectation that they follow these requirements. The consequences of non-compliance with Wage & Hour provisions can be significant.

Any questions or concerns about the application of Wage & Hour requirements should be directed to Human Resources & Development.

Additional Information for Supervisors

Unauthorized work as defined by Wage & Hour:

Work not requested but permitted is work time. The employer must count it as hours worked. For example, an employee may voluntarily continue working at the end of the day to finish a report or assigned task. The reason is immaterial. The employer knows or has reason to believe the employee is continuing to work. The time is work time and must be recorded as such. The rule also applies to work performed away from the premises or the job site or even at home. If the employer knows or has reason to believe that the work is being performed, the time must be counted as hours worked. In all such cases, it is management’s duty to exercise its control. The employer must ensure that work is not being performed if the employer does not want work performed. An

employer may not accept the benefits of work performed without providing appropriate compensation. The mere promulgation of a rule against such work is not enough. Management has the power to enforce the rule and must make every effort to do so.

The employer is responsible to pay for all time worked. In the case of unauthorized work time, employees should be told that working unauthorized time or overtime may lead to disciplinary action, not nonpayment for hours worked. **If employees continue to perform unauthorized work, they should be paid for it and disciplined.**

Sample Dialogue for a Supervisory Discussion with Employees:

In our meeting today I wanted to take a few minutes to share with you my expectations in regard to accurately reporting and recording time worked. For those of you who are in overtime eligible positions (sometimes referred to as “non-exempt”), it is critical that all time worked, including any overtime be reported and recorded accurately for each day worked.

While I appreciate that sometimes you may be tempted to put in some extra time to finish up something you are working on and then not record the extra time, I can’t allow you to do that. The same goes for taking work home with the idea that you will just do it on your own time. If you are an overtime-eligible employee, there is no such thing as you “volunteering” your time when it comes to this job. **All** of the time that you work must be reported and recorded accurately.

My expectation is that you will only work your approved hours/schedule unless you have my prior approval to do otherwise. If you have any questions about this please let me know.

Additional language if the work area sometimes requires non-exempt employees to work overtime without first receiving supervisory approval (such as emergencies or special circumstances):

The work that we do in this area sometimes requires that we put in extra hours or work hours other than our normal schedule in order to respond to emergency situations or other special circumstances. When an emergency or special circumstance exists, it is not always going to be possible or practicable for you to get my prior approval before responding to the situation. So, in certain specific types of instances, I will not expect you to get my approval prior to working extra hours or work outside of your normal schedule. I will expect you to record your time worked accurately and to report it to me as soon as possible. Examples of emergency or special circumstances when it would be appropriate for you to go ahead and work extra hours or work outside your normal schedule without my prior approval are:

(Cite examples)