



# **FLSA and Remote Work Considerations for Salaried Non-Exempt Staff**

Time Reporting Guidance – March 2024

*Last Modified: April 25, 2024*

## Purpose

This guidance is to help salaried non-exempt employees understand how to report time worked when working remotely, and help supervisors set clear expectations with their staff as well as understand what choices might incur overtime pay to manage their unit's budget appropriately and responsibly. It focuses on newly overtime-eligible, salaried staff in the context of proposed changes to Fair Labor Standards Act (FLSA) regulations.

## General Guidelines

1. Time spent on university business is work time regardless of where or how it is performed. Tasks such as responding to email outside of work hours or preparing for meetings the following work day are work time.
2. Time worked must be paid. Neither the employee, the supervisor, nor the university can opt not to pay it; i.e., the employee can't "volunteer" their time.
3. Working remotely and from mobile devices offers the opportunity for frequent, short instances of work time, such as reading and responding to email on a smartphone. Units should establish expectations around communication outside normal business hours to both record time accurately and avoid unnecessary, unplanned overtime.
  - A related concept for short periods of work time is "de minimis" time. Salaried non-exempt employees report time worked in 15-minute increments. An instance of work time 7 minutes or fewer rounds down to zero time reported. This does not mean, however, that repeated instances of de minimis time result in no time reported. As with other time reporting practices, pushing this to the extreme is not advisable and should not be seen as a workaround to accurate overall time reporting.

Example of appropriate "de minimis" use: An employee whose regular works hours begin at 8:30 a.m. begins work at 8:25 a.m. one day and 8:34 a.m. the next day.

Example of inappropriate "de minimis" use: An employee whose regular work hours end at 5:00 p.m. checks and responds to email repeatedly over the course of several hours throughout the evening, reporting no work time because each instance was 7 minutes or fewer.

4. Working remotely also offers opportunities for a wider variety of interruptions to the regular work day. The difference between a salaried, exempt employee and a salaried non-exempt

employee is the need for the salaried non-exempt employee to be attentive to how much time is actually worked. All employees have an obligation to avoid distractions that interrupt focused, productive work time, and to communicate clearly with their supervisor about time away from work during regular business hours.

5. Daily commuting time is not work time. For an employee working remotely, travel time during the work day to attend an in-person meeting is work time, because they already reported to work at their remote location.
  - Example: If the meeting is in a location the employee could otherwise work from (such as a hybrid employee whose office is in the same building coming in for a department-wide meeting), the unit can have the employee work on-site for the whole day. Their commute to report to work for the day is not work time, just as for other employees working on-site.
6. Overtime should be approved in advance by the supervisor, consistent with university policies including [University Policy & Rules](#) for civil service employees. Units need to define practices for that advance approval appropriate to the nature of their work, similar to local practices about how to submit leave or absence requests.
7. Salaried non-exempt employees are not eligible for compensatory time (a.k.a., “comp time”) in lieu of overtime paid as wages.
8. As salaried employees, they remain within the annual Vacation & Sick Leave (VSL) process with campus-wide reporting deadlines in May and August.

See also: [FLSA and Travel Time for Non-Exempt Staff Employees](#)