

MEMORANDUM

Date: February 2, 1994
Reference Code: 94-06

To: PERSONNEL MANAGEMENT LIAISONS

THIS MEMORANDUM SHOULD BE DISTRIBUTED TO:

Employee Relations Officers
Personnel Officers

From: Department of Personnel Administration
Labor Relations Division
1515 "S" Street, North Building, Room 400
Sacramento, CA 95814

Subject: Travel Policy

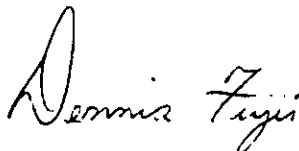
Effective April 1, 1994, the State intends to implement the enclosed travel policy consistent with the provisions of the 1992-95 Memoranda of Understanding. Concurrent with this PML, the Department of Personnel Administration (DPA) is noticing all affected exclusive representatives offering to meet and confer on the impact of this policy. The enclosed policy is applicable to all employees covered by the Fair Labor Standards Act and is consistent with the most recent Department of Labor regulations and letter rulings.

To assist Departments in implementing this policy, a number of training sessions have been scheduled at the DPA Training Center as follows:

February 15	8:00 to 12:00	Colorado-Kearn
February 18	8:00 to 12:00	Colorado-Kearn
February 18	1:00 to 5:00	Colorado-Kearn

Departments are encouraged to send staff who are responsible for interpreting and applying departmental travel policies. However, because seating is limited, we ask that a maximum of three individuals from each department attend the training. If necessary, training will be scheduled in locations outside of Sacramento.

To enroll in one of the training sessions noted above, please call Anita Ybarbo or Juanita Bretz at (916) 324-0477, CALNET 454-0477. Should you desire a training session in another locale or should you have any other questions, please call me at (916) 324-0505 or Bruce Crane at 324-0530.



for Michael T. Navarro
Labor Relations Officer

Enclosure



APRIL 1, 1994

FLSA TRAVEL POLICY
COMPENSABLE HOURS WORKED

1. COMMUTING

- A. Ordinary home to work and work to home commuting is not compensable hours worked.

Each employee, regardless of their geographic location, may have a commute time that differs from other employees because of a variety of factors. These include:

- * Location of the employee's residence
- * Method of commuting
- * Time of day the commute is made
- * Routes available for the commute
- * Weather and road conditions during the commute
- * Public transit equipment failure and delays
- * Starting and finishing work sites

The Fair Labor Standards Act (FLSA) regulations state that ordinary travel from home to work and vice versa need not be counted as compensable time worked, regardless of whether the employee commutes to a fixed work site or not. Thus, the commute time and distance traveled may vary significantly between employees and may vary significantly for the same employee over the duration of a year. Ordinary travel is not an average or fixed amount of time, but rather is the actual time necessary to travel from home to work and back home again.

- B. Home As Headquarters.

When an employee's residence is assigned by the appointing power as their headquarters ordinary home to work travel will depend on where the employee starts the days work.



For example, if the employee's regular work hours are eight to five and the first assignment of the day is at another location, travel to that location is considered ordinary home to work travel.

On the other hand, if an employee works at home for any significant amount of time (30 minutes or more) before traveling to a different work site, that travel is compensable and must be counted as hours worked.

When the employee ends their work day (5 p.m.) at a work site away from home, the return trip to their home is considered ordinary work to home travel. Time spent by an employee in travel from job site to job site during the workday, must be counted as compensable hours worked.

C. Commuting While Away From Home.

When an employee is out of town overnight on business, the hotel/motel/apartment/home at which he or she is staying becomes their residence. Travel, before the 8 a.m. start time, to their out of town work site is ordinary home to work travel. Travel after the 5 p.m. quit time to their temporary out of town residence is also ordinary work to home travel. It is the responsibility of the employee to choose out of town accommodations that minimizes the commute time to their work location.

D. Call Back Travel.

If an employee who has gone home after completing the day's work is called back later to their regular place of work, the travel time is not counted as compensable hours worked. However, if the employee is required to travel to another work site, substantially further than the regular place of work (at least 25 miles from headquarters), the travel time is work time.

2. ONE DAY TRAVEL TO ANOTHER CITY

A. Distance From Headquarters.

A proportion of the time spent during one day travel to another city may be compensable time worked. In order to recognize the different geographic commute conditions and operational requirements of the various departments, each appointing authority must establish written criteria to determine when one day travel to a work site other than headquarters warrants treatment as travel to another city rather than ordinary home to work travel.



Under normal circumstances travel to a work location within 25 miles of an employees headquarters must be considered ordinary home to work and work to home travel and is not compensable time worked. Exceptions to this standard may be allowed when highly unusual conditions justify the travel be considered one day travel to another city. Exceptions must be approved by the Classification and Compensation Division of the Department of Personnel Administration.

B. Deduction of Commute and Mid-Day Meal Time.

When an employee travels to another city and returns home during the same day the travel time will be considered as compensable time worked. However, the employees normal commute time and mid-day meal period may be deducted from the travel time.

For example an employee who works in San Francisco with regular working hours of 8 a.m. to 5 p.m. and a one hour lunch period is assigned to work in Sacramento the next day. The employee's normal commute time is 30 minutes each way to and from their regular work site. The employee leaves home at 6 a.m. and drives to Sacramento arriving at 8 a.m. The employee takes their regular lunch hour and works until 5 p.m. The employee drives back to San Francisco arriving home at 7 p.m. The time between 6 a.m. and 7 p.m. minus one hour commute time and one hour lunch time (11 hours) must be considered compensable hours worked.

C. Travel By Public Transit.

On one day travel to another city, when the employee is using public transit, the compensable hours time clock will start at the time the employee is required to be at the departure location of the public transportation. For example, commercial airlines ask that a passenger check in 1/2 to 1 hour before flight departure. The compensable hours worked clock will start at check in time. The travel time necessary to get to the airport is considered ordinary home to work travel. Likewise when the employee leaves the airport after the return flight home at the end of the day, the compensable hours worked clock stops and the trip to their residence is ordinary work to home travel.



As an example, an employee who works in Sacramento with regular work hours of 8 a.m. to 5 p.m., with a one hour lunch period, is assigned to work in Los Angeles the next day. The employee is required to check in for the flight at 7 a.m. and leaves home at 6:15 a.m. The employee completes their work in Los Angeles and returns to Sacramento on a flight arriving at 7:15 p.m. The time between 7 a.m. and 7:15 p.m. minus one hour for lunch (11.25 hours) is counted as compensable time worked. The travel time to and from the airport is ordinary home to work and work to home travel.

3. OVERNIGHT TRAVEL TO ANOTHER CITY

A. Travel Time.

Travel away from home outside of the employee's regular scheduled work hours as a passenger on an airplane, train, bus, boat, or auto is not counted as compensable hours worked. Likewise, the travel time of the driver of an automobile, whether it is a state or privately owned vehicle is not counted as compensable hours worked. If the travel occurs during the employee's normal working hours, including travel during normal working hours on holidays, weekends, or the employee's regular scheduled days off, it is considered compensable hours worked.

For example, an employee who works in Sacramento with normal working hours of 8 a.m. to 5 p.m., flies to Los Angeles on a 10 a.m. flight after working an hour in the office. The flight arrives in Los Angeles at 11:30 a.m. The employee eats lunch and reports to work at 1 p.m. in the Los Angeles office finishing the work day at 5 p.m. The employee is credited with 8 hours of compensable time worked for the day.

The employee flies back to Sacramento on the following Saturday arriving at the L.A. airport at 3 p.m. and landing in Sacramento at 5 p.m. The employee receives 2 hours of compensable time worked because the travel time was during his/her normal working hours of 8 to 5.

If an employee is scheduled to take public transportation, but requests permission to drive his/her car or a state car instead, the appointing power may only count as compensable hours worked those hours that would have been traveled during the regular work hours if the employee had used the public transportation offered.



B. Off Duty Hours.

Department of Labor regulations state that periods during which an employee is relieved from duty and which are long enough to enable him/her to use the time effectively for his/her own purpose are not compensable hours worked. This is true for the employee that is out of town on business as well as for the employee working at their regular work location at home.

An employee who is working out of town and must spend an evening, multiple evenings or the weekend away from home is still free to pursue his/her own interests after the work day ends. The fact that an employee is out of town during regular work hours on the weekend does not mean these are compensable hours worked. The employee is off duty from the time he/she ends their work day on Friday until they return to work on Monday. The fact that the employee is continuing to receive per diem during the weekend has no bearing on whether they are on duty or off duty.

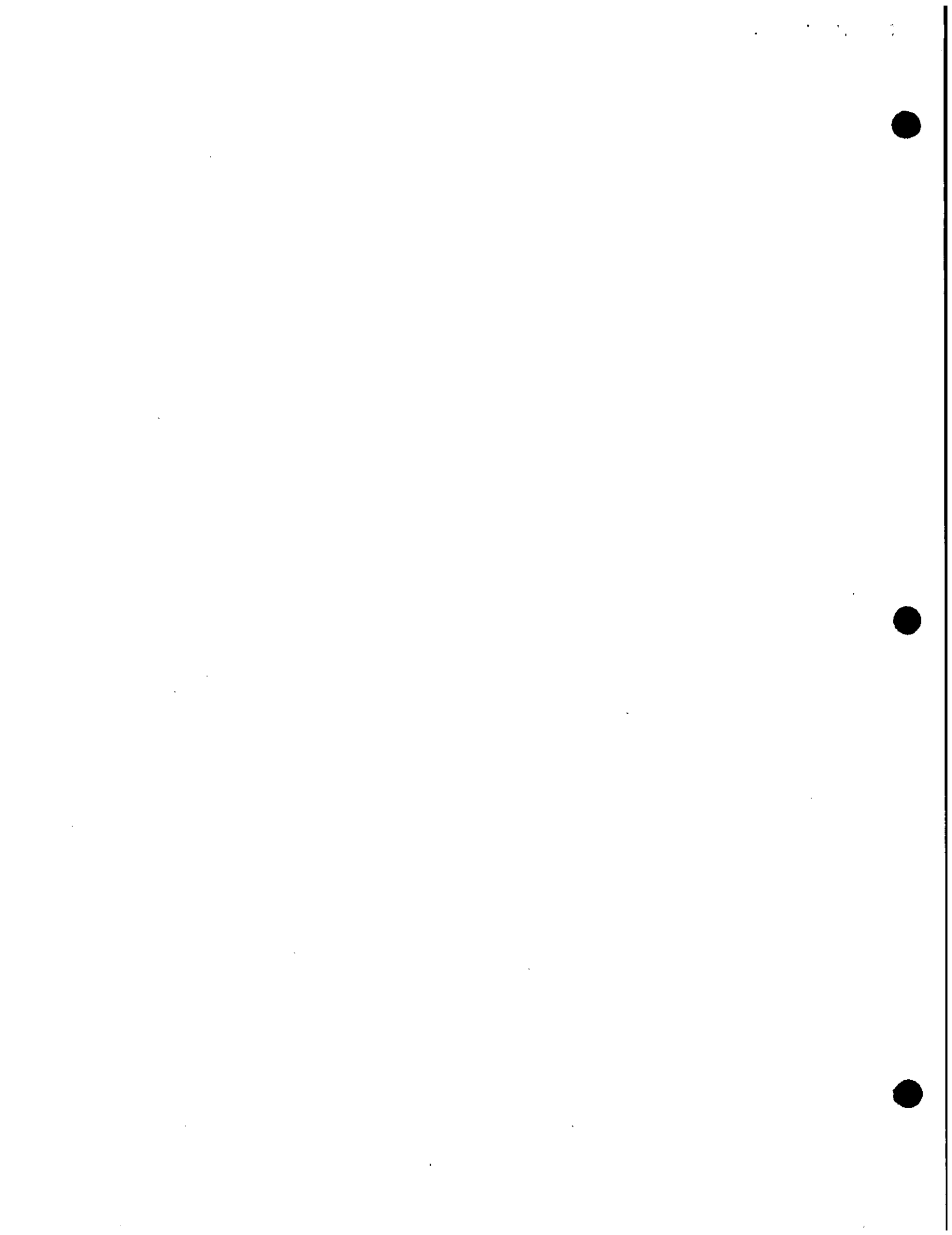
C. Travel Delays.

It is possible that employees traveling to and from out of town assignments may occasionally suffer travel delays because of errors in travel arrangements, weather or road conditions, or equipment breakdowns. Additional time spent in travel because of these or related circumstances are not compensable hours worked unless the travel occurs during the employees regularly scheduled work hours.

It is permissible for the appointing power to authorize informal time off for an employee immediately following arduous and extended travel to recognize the inconvenience the delay may have caused. However, under no circumstances should compensating time off (CTO) be accrued for use at a later date or cash compensation be paid in lieu of the informal time off.

D. Work Performed While Traveling.

If an employee is required to work while traveling, the time must be counted as hours worked except during meal periods or periods during which the employee is off duty and/or sleeping in adequate facilities provided by the employer. Passengers riding in vehicles are not considered to be working during such trips except during that part of the trip that occurs during regular scheduled working hours excluding meal time.



For example, an employee whose regular job includes the specific task to operate or drive a truck, bus, boat, or pilot a plane, as part of their regular day to day responsibilities is working while traveling. A bus driver is working while carrying passengers from one location to another between cities; a worker driving a truck carrying a load of supplies or equipment to a different city after the normal work day, unloading the material and driving back the next day is working while traveling. Likewise, employees assigned to accompany the drivers as helpers or assistants in either sharing the driving or assisting in loading or unloading the vehicle are also working while traveling.

An employee that is permanently assigned a vehicle to use as transportation to different work sites during the day or week is working as he/she drives between the various work locations during their normal work hours. However, if the employee uses the vehicle to drive to and from work, that travel time is considered ordinary commute time.

On the other hand, an employee that drives an automobile, van, truck or station wagon and is accompanied by other employees to an out of town work location as a matter of convenience or economy is not working while traveling before or after normal work hours. Likewise, an employee that drives a van or truck rather than an automobile because it is the most efficient way to carry equipment necessary to perform the work at the out of town location is not working while traveling.

E. Using Special Vehicles For Transportation.

Employees driving or riding in motor vehicles carrying or towing special equipment that results in substantially longer travel time may be considered working while traveling for that portion of the trip beyond normal travel time. To be considered compensable the extended travel time must be a result of restricted travel routes or limited vehicle speeds rather than travel delays as described in Section 3C.



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F. Regular Scheduled Work Hours.

For the majority of employees their regular scheduled work hours during out of town travel will remain the same as their work schedule at their home work site. However, for employees on 4/10/40 or 9/80 schedules, partial days or evening and night shifts, who will be working a normal 8 hour daytime schedule while out of town, the travel to and from the out of town assignment during the new hours to be worked out of town should be considered as compensable hours worked.

