



UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF INDIAN AFFAIRS  
Office of Indian Education Programs  
Human Resources Office  
P. O. Box 769  
Albuquerque, New Mexico 87103

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IN REPLY REFER TO:  
Employee/Labor Relations  
(505) 248-7086  
(505) 248-6986 Fax

**OIEP Human Resources Bulletin: 04-01**

To: Office of Indian Education Program Employees

From: *Nancy J. [Signature]*  
Human Resources Officer

Subject: **Policy on Hours of Work For Travel**

**Description:**

In limited circumstances, travel time may be considered hours of work. The rules on travel hours of work depend on whether an employee is covered by or exempt from the Fair Labor Standards Act (FLSA). For FLSA-exempt employees, the crediting of travel time as hours of work is governed under title 5 rules-in particular, 5 U.S.C. 5542(b)(2) and 5544(a)(3) and 5 CFR 550.112(g) and (j). For FLSA-covered employees, travel time is credited if it is qualifying hours of work under **either** the title 5 rules or under the Office of Personnel Management's (OPM) FLSA regulations-in particular 5 CFR 551.401(h) and 551.422.

**Employee Coverage:**

Title 5 overtime laws and regulations apply to most FLSA-exempt Federal employees, including General Schedule and prevailing rate employees. Certain employees, such as members of the Senior Executive Service, are not eligible for overtime pay or other premium pay under title 5. (See 5 U.S.C. 5541(2) and 5 CFR 550.101 for coverage rules).

OPM's FLSA regulations apply to most FLSA-covered Federal employees. (See 5 U.S.C. 5542(b)(2) and 5544(a)(3) and 5 CFR 551.102.) An employee may determine his or her FLSA status by checking block 35 of the most recent Notification of Personnel Action (SF-50) to find out whether his or her position is nonexempt (N) or exempt (E) from the overtime pay provisions of the FLSA.

### **Travel That Is Hours of Work Under Title 5:**

Under 5 U.S.C. 5542(b)(2) and 5 CFR 550.112(g), official travel away from an employee's official duty station is hours of work if the travel is-

- within the days and hours of the employee's regularly scheduled administrative workweek, including regularly scheduled overtime hours, **or**;
- outside the hours of the employee's regularly scheduled administrative workweek, is ordered or approved, **and** meets one of the following four (4) conditions-
  - involves the performance of work while traveling (such as driving a loaded truck);
  - is incident to travel that involves the performance of work while traveling (such as driving an empty truck back to the point of origin);
  - is carried out under arduous and unusual conditions (e.g., travel on rough terrain or under extremely severe weather conditions); or
  - results from an event that could not be scheduled or controlled administratively by any individual or agency in the executive branch of Government (such as training scheduled solely by a private firm or a job-related court appearance required by a court subpoena).

Note: An agency may not adjust an employee's normal regularly scheduled administrative workweek solely to include travel hours that would not otherwise be considered hours of work.

### **Travel That is Hours of Work Under the FLSA**

For FLSA-covered employees, time spent traveling is hours of work if-

- an employee is required to travel during regular working hours (i.e., during the regularly scheduled administrative workweek);
- an employee is required to work during travel (e.g., by being required to drive a Government vehicle as part of a work assignment);

- an employee is required to travel as a passenger on a one (1) day assignment away from the official duty station; or
- an employee is required to travel as a passenger on an overnight assignment away from the official duty station during hours on nonworkdays that correspond to the employee's regular working hours. (See 5 CFR 551.422(a).)

Note: An agency may not adjust an employee's normal regularly scheduled administrative workweek solely to include travel hours that would not be considered hours of work.

### **Official Duty Station**

"Official Duty Station" is defined in 5 CFR 550.112(j) and 551.422(d). An agency may prescribe a mileage radius of not greater than 50 miles to determine whether an employee's travel is within or outside the limits of the employee's official duty station for determining entitlement to overtime pay for travel.

### **Contact Information**

If you have questions concerning the above policy, please contact the Employee and Labor Relations Section at (505) 248-6359.