

Non-Exempt/Exempt Status - Overview

- Federal law - Fair Labor Standards Act (FLSA) and California Wage Orders (CWO)
 - Define the types of jobs which are “non-exempt or exempt” from certain federal and state laws and regulations.
- Positions are reviewed against the FLSA and CWO in regard to a salary basis test and type of duties/responsibilities.
 - SALARY tests refer to a minimum weekly rate of pay based upon :
 - A fixed amount for any week in which work is performed without variance for hours, quantity or quality of work
 - White Collar DUTIES Tests:
 - Executive, Administrative, Professional (Learned, Creative, Computer)
- Employees performing jobs not meeting the scope of work criteria applied by these agencies to be considered “exempt” are considered “**non-exempt**”.
 - Employers must pay all non-exempt employees at least minimum wage for all hours worked, and at least one and one-half their regular hourly rate of pay for all hours worked over 40 in a single **workweek (Sunday through Saturday)**

Exempt – Work Hours Overview

- Exempt employees are expected to accomplish assigned work without regard for number of hours worked
- If exempt employees need to work extra hours in the business day or week, they do not receive overtime or accrue compensatory time off
- General office hours of a base of 40 hours per week do not jeopardize the exemption status

Meal Periods & Breaks - Overview

- CSU staff covered by certain Collective Bargaining Agreements (CBAs) have required meal periods and breaks
 - Required for all staff (CSUEU, SETC, UAPD)
 - Sworn Officers (SUPA) Not required and breaks may be cancelled by the Chief during emergencies
 - APC Only requires non-exempt staff to have meal periods and Breaks'
 - Based upon CA Wage Order No. 4 and Labor Code 512
- Even if not required by CBA, meal periods and breaks are a good business practice and healthy for our staff
 - Provide employees with time to get away from the demands of his/her job, relax a bit and recharge
 - Result is a more productive and creative work force

Rest Periods

- Rest period each workday of fifteen (15) minutes for each four (4) hours worked
 - 2 breaks in an 8 hour day; 3 breaks in a 12 hour day
- Rest period schedules are:
 - Determined by the appropriate Administrator in accordance with the operational needs of the department,
 - To be taken at or near the middle of each four (4) hour work period
- Rest periods count as hours worked (paid time) and cannot be accumulated to replace any portion of a meal period or change the beginning or end of a work day

Meal Periods

- Non-exempt employees may not be required to work for more than five (5) hours without a meal break, unless the workday is less than six (6) hours
 - If the work day schedule is up to 12 hours, then there should be a 2nd meal period beginning prior to the 10th hour, in addition to the 3 on-the-clock breaks
- Meal periods are not considered time worked if they meet all of the following criteria:
 - Meal periods are at least thirty (30) minutes in duration,
 - The employee is completely relieved of his/her duty, and
 - The employee is free to leave his/her work station if the employee so desires
- Meal periods are to be taken at or near the middle of the day (no later than the 5th hour).
 - An employee may not shorten or eliminate his/her scheduled lunch period to alter the beginning or ending of a workday
 - An employee may not elect to work during a meal period for personal convenience

Time Reporting Differences

For Non-Exempt and Exempt

- **Non-exempt staff**

- May enter leave time (sick, vacation) or dock in pay in partial day increments
- Rest periods (15 minutes) are counted within hours worked
- Meal periods (30 minutes or more) are not counted as hours worked

- **Exempt staff**

- May be assigned office hours without jeopardizing the exemption status
- Leave time (sick and vacation), holiday, and docks in pay are taken in whole day increments -- unless the employee is on FMLA leave, then earned leave credits may be taken in less than full-day increments

Non-Exempt – Travel Time

- Time Spent Traveling -- Commuting:
 - From home to regular work site is not considered compensable work hours
- Exceptions:
 - Assigned to a location other than their regular work site for a one-day assignment – time spent traveling to/from the location in excess of normal commuting time, is considered “hours worked”
 - Assigned to a location other than their regular work site which requires extended (or overnight) travel,
 - Time spent waiting to purchase a ticket, check a bag, etc. is considered compensable “hours worked”
 - Activities such as taking a break from travel to eat, sleep or engage in personal pursuits not connected with traveling, is not compensable (example: once they reach the hotel and are free to choose what they do)
 - Compensable Time --- must be included when calculating overtime

CSU Compensable Time for Non-Exempt employees Authorized to Travel on Official Business policy

→ <https://csyou.calstate.edu/Policies/HRPolicies/HR2013-01.pdf>