

Refresher on California Commute Time

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Over the last 12 months, many employees have started to return to work at a worksite other than their home, even though some remain remote or partially remote. Employers may need a refresher on commute time for employees.

Under the California Wage Orders, hours worked are defined as the time during which an employee is subject to the control of the employer and includes the time the employee is “suffered and permitted” to work. Generally, this means that the time an employee spends commuting to and from the office or similar worksite is not compensable.

However, there are some circumstances where time spent commuting to a worksite may be deemed compensable. Here is a refresher on some of the issues with commute time.

Employer-Provided Transportation

In certain circumstances travel to a worksite via employer-provided transportation may be compensable. In a case from 2000, the California Supreme Court held that where the employer requires its employees to meet at a designated place, use the employer’s transportation to and from the worksite, and prohibits employees from using their own transportation, the time spent on the employer transportation would be compensable.

However, if the use of employer-provided transport is completely voluntary, the time spent is not compensable.

Longer Commute

Travel involving a substantial distance from the assigned workplace to a distant worksite to report to work on a short-term basis may be compensable. In part, it will depend on how long the new worksite is assigned.

According to the California Labor Commissioner, the travel time is measured by the difference between the time it normally takes the employee to travel from his or her home to the assigned worksite and the time it takes the employee to travel from home to the distant worksite. This could calculate to no compensable time if, for instance, the travel time is less from the employee’s home to

the distant worksite than the employee's normal commute.

No Regular Work Site

Some employees in certain occupations, by the nature of the industry and the occupation, are not assigned to a specific workplace and have a reasonable expectation that they will be routinely required to travel reasonable distances to job sites on a daily basis. If an employee has no regular job site, travel time to the new job site each day is not compensable.

As a reminder, compensation paid for drive time is separate from potential reimbursement obligations an employer may have for mileage and other business expenses when an employee travels for work.

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National Law Review, Volume XII, Number 137

Source URL: <https://natlawreview.com/article/refreshers-california-commute-time>