

**U.S. Department of Labor Begins at 10:00 am**



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**Diverse Communities**

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A Virtual Resource Fair



**WHD**  
U.S. Wage and Hour Division

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**Phone: (510) 210-8882 | Access Code: 199 191 9244**



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**U.S. Department of Labor – Wage and Hour Division**  
***Did You Know?***

This session will provide general information about the various laws enforced by the Wage & Hour Division. The primary focus will be on the Fair Labor Standards Act, which is the law that most affects the general public, and the Family First Coronavirus Response Act, which went into effect on April 1<sup>st</sup>. In addition, participants will be provided guidance on how and what information is needed to file a complaint with the Wage & Hour Division.

Presenter:

**Domingo Y. Castillo**

Community Outreach & Resource Planning Specialist



# FAIR LABOR STANDARDS ACT



# Major Provisions



Coverage



Youth  
Employment



Minimum Wage



Recordkeeping



Overtime

# Employment Relationship

In order for the FLSA to apply, there must be an employment relationship between the “employer” and the “employee”

# Minimum Wage



Covered, non-exempt employees must be paid at least the federal minimum wage, in cash or the equivalent, free and clear, for all hours worked

Current federal minimum wage

# Minimum Wage

## Compensation includes:

- Wages (salary, hourly and piece rates)
- Commissions
- Certain bonuses
- Tips received by eligible employees up to \$5.12 per hour (where the employer takes a tip credit)

# Minimum Wage

**Deductions** from pay are illegal if:

- Items are primarily for the benefit or convenience of employer, and
- Deduction reduces employee earnings below required minimum wage

Examples of illegal deductions: deductions for tools, damages to property, cash register shortages



FACT SHEET:  
Deductions



# Minimum Wage

## Hours Worked



An employee must be paid for all of the time considered to be “hours worked” under the FLSA.

This may include time spent engaged to wait, on-call, in training, or travelling, as well as sleep time.

Work not requested but “suffered or permitted” is work time.



**FACT SHEET:**  
Hours  
Worked

# Minimum Wage

## Waiting Time

### Hours worked

Employee unable to use "waiting time" effectively for own purposes

"Waiting time" controlled by employer

### NOT hours worked

Employee completely relieved from duty

Break-time long enough for employee to use for own purposes

# Minimum Wage

## Rest and Meal Periods

- Short rest breaks (20 min or less) are compensable
- Bona fide meal periods (typically 30 minutes or more) need not be paid as hours worked
- Worker must be completely relieved of duty for meal period not to be compensable time.

# Minimum Wage

## Training Time

Time spent in meetings, lectures or training is considered *hours worked* and must be paid, unless:

- Attendance outside regular work hours
- Attendance voluntary
- Course, lecture, meeting not job related, **and**
- Employee does not perform any productive work

# Minimum Wage

## Travel Time

- Ordinary home to work travel is *not* compensable work time
- Travel between job sites during normal work day *is* work time and thus compensable hours worked
- Special rules apply to travel away from employee's home community

# Minimum Wage

## Hours Worked Summary and Common Violations

- ***Suffered or Permitted:*** working “off the clock”
- ***Waiting Time:*** engaged to wait
- ***On-Call Time:*** not free from duty or employer control
- ***Meal and Rest Periods:*** not free from duty
- ***Training Time:*** unpaid training during work time
- ***Travel Time:*** unpaid travel between job sites

# Minimum Wage

## Minimum Wage Summary and Common Violations

- **Compensation Included:** Required minimum wage in cash and/or allowable equivalent
- **Deductions:** Illegal deductions, minimum wage not paid
- **Tipped Employees:** Tips not retained by employees, cash wage not paid
- **Hours Worked:** Work suffered or permitted not recorded, or paid

# Overtime



Covered, non-exempt employees must receive one and one-half times their regular rate of pay for all hours worked over forty in a workweek

All time that is hours worked must be counted when determining overtime hours worked.



FACT SHEET:  
Overtime



# Overtime



- Compliance determined by workweek
- Each workweek stands alone
- Workweek is 7 consecutive 24-hour periods (168 hours)

# Overtime

## Regular Rate

- Determined by dividing total earnings in workweek (except for statutory exclusions) by total number of hours worked in workweek

**Total Compensation (except for statutory exclusions)**

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**Total Hours Worked = RR**

- *Regular Rate* may not be less than the applicable minimum wage
- ***Total earnings include commissions, certain bonuses, and cost of room, board, and other facilities provided primarily for the employee's benefit***

# Overtime

## Regular Rate and Premium Pay for OT Hours

**STEP 1:** Total compensation paid in a workweek  
(except for statutory exclusions) divided by  
total hours worked in the workweek

$$\frac{\text{Total Compensation (except for statutory exclusions)}}{\text{Total Hours Worked}} = \text{RR}$$

**STEP 2:**  $\text{RR} \times .5 = \text{Half-time Premium Pay per OT Hour}$

**STEP 3:** (Half-time) Premium Pay Rate x Overtime Hours in  
the Workweek = Overtime Compensation Due



# Overtime

## Exercise: Production Bonus

<b>Hourly Rate:</b>	\$9.00	$48\text{H} \times \$9.00 =$	\$432.00
<b>Bonus per week:</b>	\$10.00	$\$432 + \$10.00 =$	\$442.00
<b>Hours worked:</b>	48	$\$442.00 \div 48\text{H} =$	\$9.21 RR
		$\$9.21 \times .5 =$	\$4.61
		$\$4.61 \times 8\text{H} =$	\$36.88 OT
<b>Total compensation for week:</b>		$\$442.00 + \$36.88 =$	\$478.88



# Overtime

## Exercise: Different Hourly Rates

<b>Janitor Rate:</b>	\$8.50	21H x \$8.50 =	\$178.50
<b>Janitor Hours:</b>	21	26H x \$9.00 =	\$234.00
<b>Cook Rate:</b>	\$9.00	\$178.50 + \$234 =	\$412.50
<b>Cook Hours:</b>	26	\$412.50 ÷ 47H =	\$8.78 <b>RR</b>
<b>Total Hours:</b>	47	\$8.78 x .5 =	\$4.39
		\$4.39 x 7H =	\$30.73 <b>OT</b>
<b>Total compensation for week:</b>		\$412.50 + \$30.73 =	\$443.23



# Overtime

## Exercise: Piece Rates

<b>Piece Rate Wages</b>		46H @ Piece Rate:	\$391.00
<b>for week :</b>	\$391.00	4H x \$7.25 =	\$29.00
<b>Piece Rate Hours:</b>	46	Production Bonus:	\$12.50
<b>Wait Time Rate:</b>	\$7.25	<b>Total ST Earnings:</b>	\$432.50
<b>Wait Time Hours:</b>	4	$\$432 \div 50\text{H} =$	\$8.65 <b>RR</b>
<b>Production Bonus</b>		$\$8.65 \times .5 =$	\$4.33
<b>for week :</b>	\$12.50	$\$4.33 \times 10\text{H} =$	\$43.30 <b>OT</b>
<b>Total Hours Worked:</b>	50		
<b>Total compensation for week:</b>		$\$432.50 + \$43.30 =$	\$475.80



# Overtime

## Exercise: Salary for Fixed Hours

**Weekly Salary for**

**40 hours:** \$420.00

**Fixed Hours:** 40

**Hours Worked**

**that workweek:** 48

$\$420 \div 40 = \$10.50$  **RR**

$\$10.50 \times 1.5 = \$15.75$  **OT Rate**

$\$15.75 \times 8H = \$126.00$  **OT**

$\$420 + \$126 = \$546.00$  **Total  
compensation due, including OT**



# Overtime

## Exercise: Fixed Salary for Fluctuating Hours

**Weekly Salary-for all  
hours worked:** \$420.00

$$\$420 \div 49H = \$8.57 \text{ RR}$$

Week 1  
**Hours Worked:** 49

**Additional Half-Time Rate:**

$$\$8.57 \times .5 = \$4.29$$

$$\$4.29 \times 9H = \$38.61 \text{ OT}$$

$$\$420 + \$38.61 = \$458.61 \text{ Total}$$

**compensation due for Week 1**





# Overtime

## Exercise: Fixed Salary for Fluctuating Hours

**Weekly Salary-for all**

**hours worked :**      \$420.00       $\$420 \div 41H =$       \$10.24 RR

Week 2

**Hours Worked:**      41

**Additional Half-Time Rate:**

$\$10.24 \times .5 =$       \$5.12

$\$5.12 \times 1H =$       \$5.12 OT

$\$420 + \$5.12 =$       \$425.12 **Total compensation due for Week 2**

# Overtime

## Common Overtime Violations

- **Regular Rate:** Failure to include production bonuses, shift differentials, piece rates in determining the regular rate for calculating OT compensation due
- **Combined hours, rates for dual jobs:** Failure to combine all hours in dual jobs or multiple sites of single employer
- **Tipped Employees:** Failure to calculate correct cash OT payment

# Overtime

## Common Overtime Violations

- **“White Collar” Exemptions:** Misapplication of exemption, or improper assumption that all salaried employees are exempt
- **Deductions:** Improper deductions in OT weeks
- **Misclassification:** Improper treatment of employee as independent contractor
- **Hours worked:** Failure to record, pay for all hours worked
- **State Law:** Confusion between state and federal law

# Youth Employment



Federal youth employment rules set both hours and occupational standards for youth



# Youth Employment

- **16 and 17 year olds**  
Unlimited hours; may work in any occupation other than those declared hazardous by Secretary of Labor
- **14 and 15 year olds**  
May work outside school hours and for limited periods of time; only non-manufacturing, non-hazardous jobs, and specific conditions apply
- **Children under 14**  
With limited exceptions, no employment permitted in covered, non-agricultural occupations

# Recordkeeping



- All employers subject to any provision of the FLSA must make, keep, and preserve certain records
- Time clocks are not required and records need not be kept in any particular form
- Every covered employer must keep basic records for each worker, with additional requirements for non-exempt workers



**FACT SHEET:**  
Recordkeeping  
Requirements

# FLSA Enforcement

## Limits of the FLSA FLSA does **NOT** require

- Vacation, holiday, severance, sick pay
- Meal or rest periods, holidays off, vacations
- Premium pay for weekend or holiday work
- Discharge notice, reason for discharge
- Limit on number of hours or days employees 16 years or older may work
- Pay raises, fringe benefits

# FLSA Compliance Assistance

- Call WHD toll free and confidential information and helpline:  
**1-866-4US-WAGE** (1-866-487-9243)
- Call or visit the nearest Wage and Hour Division Office: WHD Offices
- Employment Laws Assistance for Workers and Small Businesses (ELAWS): Elaws



# Wage and Hour Division

## Disclaimer

This presentation is intended as general information only and does not carry the force of legal opinion. The Department of Labor is providing this information as a public service. This information and related materials are presented to give the public access to information on Department of Labor programs. You should be aware that, while we try to keep the information timely and accurate, there will often be a delay between official publications of the materials and the modifications of these pages. Therefore, we make no express or implied guarantees. The *Federal Register* and the *Code of Federal Regulations* remain the official source for regulatory information published by the Department of Labor. We will make every effort to keep this information current and to correct errors brought to our attention.

# The Families First Coronavirus Response Act (FFCRA)

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UNITED STATES DEPARTMENT  
OF LABOR



# Family First Coronavirus Response Act (FFCRA)

- Signed into law **March 18, 2020**
  - Emergency Paid Sick Leave Act (EPSLA)
  - Emergency Family and Medical Leave Expansion Act (EFMLEA)
- Effective **April 1, 2020**
- Expires **December 31, 2020**
- Enforced by the U.S. Department of Labor Wage and Hour Division (WHD)

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OF LABOR

# FFCRA–Employer Coverage

- Private Sector
  - Employers of fewer than 500 employees
  - Including not for profit employers
- Public Agencies
  - Regardless of the number of employees they employ

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# FFCRA–Qualifying Reasons for Leave

An employee is entitled to take leave if the employee is unable to work or telework because the employee:

- Is subject to a federal, state, or local quarantine or isolation order related to COVID-19,
- Has been advised by a health care provider to self-quarantine related to COVID-19,
- Is experiencing COVID-19 symptoms and is seeking a medical diagnosis,

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# FFCRA–Qualifying Reasons for Leave (Continued)

(Continued) An employee is entitled to take leave if the employee is unable to work or telework because the employee:

- Is caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine related to COVID-19,
- Is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons, or
- Is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services



# FFCRA–Exclusion of Health Care Providers and Emergency Responders

Employers may exclude employees who are either:

- Health Care Providers, or
- Emergency Responders

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# FFCRA Resources

- [Families First Coronavirus Response Act: Employee Paid Leave Rights](#) - *Also available in Spanish*
- [Families First Coronavirus Response Act: Employer Paid Leave Requirements](#) - *Also available in Spanish*
- [Families First Coronavirus Response Act: Questions and Answers](#)
- [Field Assistance Bulletin \(FAB\) No. 2020-1](#)
- [\(Poster\) Employee Rights: Paid Sick Leave and Expanded Family and Medical Leave under The Families First Coronavirus Response Act \(FFCRA\)](#) - *Also available in Spanish*
- [Families First Coronavirus Response Act Notice - Frequently Asked Questions](#)
- [\(Poster\) Wage and Hour Division: Paid Sick Leave and Expanded Family and Medical Leave under the Families First Coronavirus Response Act](#) - *Also available in Spanish*
- [WHD-COVID19@dol.gov](mailto:WHD-COVID19@dol.gov) - *Email address for questions*



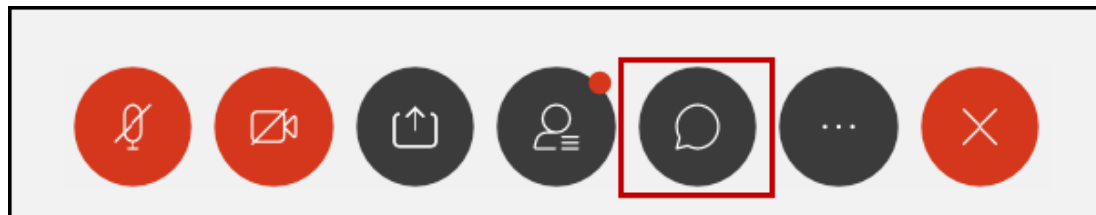


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# Questions?

Send your question by **Chat**:

- Open the **Chat** panel



- In the **Send To** or **To** drop-down list, select the recipient of your question
- Type your message in the **Chat** text box, then press **Enter** on your keyboard.