



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

Fact Sheet #8: Law Enforcement and Fire Protection Employees Under the Fair Labor Standards Act (FLSA)

Revised March 2011

This fact sheet provides general information concerning the application of the FLSA to law enforcement and fire protection personnel of State and local governments.

Characteristics

Fire protection personnel include firefighters, paramedics, emergency medical technicians, rescue workers, ambulance personnel, or hazardous materials workers who:

1. are trained in fire suppression;
2. have the legal authority and responsibility to engage in fire suppression;
3. are employed by a fire department of a municipality, county, fire district, or State; and
4. are engaged in the prevention, control and extinguishment of fires or response to emergency situations where life, property, or the environment is at risk.

There is no limit on the amount of nonexempt work that an employee employed in fire protection activities may perform. So long as the employee meets the criteria above, he or she is an employee "employed in fire protection activities" as defined in section 3(y) of the FLSA.

Law enforcement personnel are employees who are empowered by State or local ordinance to enforce laws designed to maintain peace and order, protect life and property, and to prevent and detect crimes; who have the power to arrest; and who have undergone training in law enforcement.

Employees engaged in law enforcement activities may perform some nonexempt work which is not performed as an incident to or in conjunction with their law enforcement activities. However, a person who spends more than 20 percent of the workweek or applicable work period in nonexempt activities is not considered to be an employee engaged in law enforcement activities under the FLSA.

Coverage

Section 3(s)(1)(C) of the FLSA covers all public agency employees of a State, a political subdivision of a State, or an interstate government agency.

Requirements

Hours of work generally include all of the time an employee is on duty at the employer's establishment or at a prescribed work place, as well as all other time during which the employee is suffered or permitted to work for the employer. Under certain specified conditions time spent in sleeping and eating may be excluded from compensable time.

The FLSA requires that all covered nonexempt employees be paid the statutory minimum wage of not less than \$7.25 per hour effective July 24, 2009.

The FLSA requires that all covered nonexempt employees be paid overtime pay at no less than time and one-half their regular rates of pay for all hours worked in excess of 40 in a workweek.

Section 13(b)(20) of the FLSA provides an overtime exemption to law enforcement or fire protection employees of a public agency that employs less than five employees during the workweek in law enforcement or fire protection activities.

Section 7(k) of the FLSA provides that employees engaged in fire protection or law enforcement may be paid overtime on a "work period" basis. A "work period" may be from 7 consecutive days to 28 consecutive days in length. For work periods of at least 7 but less than 28 days, overtime pay is required when the number of hours worked exceeds the number of hours that bears the same relationship to 212 (fire) or 171 (police) as the number of days in the work period bears to 28. For example, fire protection personnel are due overtime under such a plan after 106 hours worked during a 14-day work period, while law enforcement personnel must receive overtime after 86 hours worked during a 14-day work period.

Under certain prescribed conditions, a State or local government agency may give compensatory time, at a rate of not less than one and one-half hours for each overtime hour worked, in lieu of cash overtime compensation. Employees engaged in police and fire protection work may accrue up to 480 hours of compensatory time.

An employee must be permitted to use compensatory time on the date requested unless doing so would "unduly disrupt" the operations of the agency.

At the time of termination an employee must be paid the higher of (1) his or her final regular rate of pay or (2) the average regular rate during his or her last three years of employment for any compensatory time remaining "on the books" when termination occurs. For more information on state and local governments under the FLSA, see Fact Sheet #7.

No covered employer may employ any minor in violation of the youth employment provisions of the FLSA. The Act establishes specific provisions concerning prohibited occupations and/or hours of employment of minors under age 18.

Covered employers must make, keep and preserve payroll-related records as described by regulations 29 CFR Part 516.

Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website:

<http://www.dol.gov/agencies/whd> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

