

MYTHBUSTER ON VOLUNTARY TRAINING PROGRAMS

MYTH:

If a company provides on-site computers for low-skilled workers to voluntarily access online training before or after their scheduled work shifts, then the time an employee spends on the training is always compensable.

FACT:

Employers can provide on-site training programs to employees without being required to compensate them for participating as long as the program:

- (1) occurs outside normal job hours,
- (2) is voluntary,
- (3) is not directly related to the employees' current role, and
- (4) no productive work is performed at the same time.

U.S. Department of Labor guidance states that compensable hours of work generally include “all pre-shift and post-shift activities which are an integral part of the employee’s principal activity or which are closely related to the performance of the principal activity, such as writing up and completing tickets or reports. However, specific guidance is offered for training programs, which do not need to be counted as compensable working time if the activity: (1) is outside normal hours, (2) voluntary, (3) not directly related to an employees’ current job, and (4) no productive work is performed.

Training is not considered to be voluntary—and hence must be compensated—if the employee is given

FACT: To be voluntary, on-site programs must not be a condition of continued employment, nor should employees be evaluated in their current job based upon their participation.

to understand or led to believe that his present working conditions or the continuance of his employment would be adversely affected by nonattendance.

FACT: “Where a training course is instituted for the bona fide purpose of preparing for advancement through upgrading the employee to a higher skill, and is not intended to make the employee more efficient in his present job, the training is not considered directly related to the employee’s job even though the course incidentally improves his skill in doing his regular work.”

Training is directly related to the employee’s job—and therefore must generally be compensated—if it is designed to make employees handle their current jobs more effectively, as distinguished from training them for another job, or for new or additional skills that prepare the employee for advancement to a higher level position. There are some exceptions, however. Training sponsored by an employer is not compensable, even if directly related to the employee’s job, if the program is voluntary, established for the benefit of employees, and “corresponds to courses offered by bona fide institutions of learning.”

FOR MORE INFORMATION

Wage and Hour Division Website:

<http://www.wagehour.dol.gov>

Toll-free U.S. Department of Labor information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243)

Regarding Federal Regulations, visit:

www.gpo.gov/fdsys

For compensable time for training, search under 29 CFR §§ 553.221(b) and 785.31.