



Interpretive Notice & Formal Opinion (“INFO”) #20: Summary: “Time Worked” That Must Be Paid under Colorado Law

Employees must be paid for any time that counts as “time worked,” also called “compensable time” or “paid time.” This INFO #20 is a summary of the details in INFO #20A (what does and doesn’t count as time worked under Colorado law), #20B (how time worked applies to different types of pay) and #20C (travel time and sleep time).

General Rule: Time worked is **all time** performing **labor or services** for employer **benefit**. That includes:

- ▶ **Performing work.** Time an employer **benefitted** from and **permitted**, even if it didn’t **require** the time.
 - **Benefit** to an employer doesn’t require an employer to actually **control** the employee activities.
 - **Permission** includes work the employer **didn’t expressly authorize** — **if** the employer **knew**, or had **reason to believe**, employees worked for its benefit, including:
 - Work an employer **knew** or had **reason to believe** was done **outside scheduled shifts**; and
 - **Off-site** work, if the employer permitted it — such as allowing **remote or home-based** work.
- ▶ **On-premises time** in **some** cases, depending on **why** employees are on premises, **may be** time worked.
 - **Required** presence at any location **is time worked**, even if no productive work is done.
 - **Choosing** to be on-site, **if completely relieved** of duty (coming early or staying late to socialize with co-workers, or to eat in a break room) **is not time worked**.
- ▶ **The continuous workday.** Even if time is duty-free, it **is** time worked if it’s **after the start** and **before the end** of other time worked — except for long enough **breaks** when **fully relieved** from duty.

Common Pre-/Post-Shift Tasks that Count as “Time Worked,” if they take over one minute:

- ▶ **Required clothing** or **gear** pickup, dropoff, and putting on and off — except clothes worn outside work too;
- ▶ **Checking in or out** — whether for clocking, security, safety, or other purposes;
- ▶ **Meetings** or other information sharing or receiving before, after, or otherwise **outside scheduled shifts**;
- ▶ **Post-shift clean-up**, or similar off-the-clock duty before or after shifts; and
- ▶ **Waiting** for any of the above, whether **in line** or in a specific spot.¹

Waiting: ● **Required waiting** on-site, for work assignments or for other kinds of time worked, **is** time worked.

- **On-call time off-site**, and **sleep time on-site**, may or may not be time worked — depending on how **restricted** or unrestricted, and how **interrupted** or uninterrupted, the employee’s time is.

Travel: ● **Regular commuting** is **not** time worked, **unless** it includes other time worked (such as work calls while driving) or follows other time worked (under the “**continuous workday** rule,” above).

- Other travel for employer **benefit is** time worked — driving between appointments, etc.

Pay: ● Except for workers exempt from these wage and hour laws:

- All time worked must be **tracked** and **paid**, whether by hour, salary, piece rate, commission, etc.
- Time past 40 hours a week or 12 a day requires **time-and-a-half overtime pay**.²
- Pay can be **any agreed** rate, as long as **minimum** wage or more is paid “**for all hours worked**,” not just **on average** over a week or pay period.³

¹ In contrast, *federal* law excludes various of these pre-/post-shift activities that *Colorado* law covers; see INFO #20A.

² For more on who is covered or exempt from overtime, or from other wage and hour requirements, see INFO #1.

³ In contrast, some *federal* courts view *federal* law as requiring minimum wage only on average by week; see INFO #20B.