

LEGAL UPDATE

DOL Issues Guidance on Tracking Hours of Work for Remote Employees

On Aug. 24, 2020, the U.S. Department of Labor (DOL) issued [Field Assistance Bulletin No. 2020-5](#) to remind employers of their obligation to accurately account for the number of hours their employees work away from the employer's facilities. While the bulletin was issued in response to the high number of employees working remotely because of the COVID-19 pandemic, the DOL is also reminding employers that the underlying principles apply to other telework or remote work arrangements.

Compensable Time

The federal Fair Labor Standards Act (FLSA), requires employers to compensate their employees for all hours of work. Compensable time includes any hours an employee is requested or allowed to work, including telework or remote work.

For remote work situations, the bulletin clarifies that compensable time includes any time during which the employer knows or has reason to believe work is being performed, regardless of whether the work was authorized or requested.

Employer Obligations

As a result, under the FLSA employers have an obligation to track the number of hours their employees work. For this reason, employers must provide reasonable procedures for employees to report any scheduled and unscheduled hours of work. However, the DOL is of the opinion that "if an employee fails to report unscheduled hours of work through a reasonable process, the employer is not required to undergo impractical efforts to uncover unreported hours of work."

Finally, the bulletin emphasizes that employers bear the burden of preventing an employee from completing unauthorized or unwanted work.

Provided to you by [Wallace Welch & Willingham](#)

This Legal Update is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice. ©2020 Zywave, Inc. All rights reserved.

Field Assistance Bulletins

- Field Assistance Bulletins provide DOL investigators with guidance on enforcement positions and clarification of agency policy.
- FABs provide insight for employers on how the DOL plans to enforce compliance with federal law.
- Employers can access these bulletins through the [DOL website](#).

Employers are not required to undertake impractical efforts to uncover unreported hours when employees fail to report unscheduled work through a reasonable process.



**WALLACE WELCH
& WILLINGHAM**

INSURANCE & RISK MANAGEMENT SINCE 1925