

HR Tip of the Week
P•A•S ASSOCIATES
February 6, 2012

Working Lunches

Can the meal period requirement be waived for a working lunch?

We conduct monthly working lunches to inform staff of progress and pending items of interest. Can the meal period requirement be waived for this working lunch? We do provide, at no cost to the staff, a nice catered lunch!

A working lunch is considered hours worked for nonexempt employees because they are not relieved of all duty. The time must be paid and an extra hour's wage must be paid to the employee for the meal period violation. Premium pay of time-and-a-half must be paid for hours worked in excess of eight per day.

For example, an employee works from 8 a.m. to 5 p.m. with a working lunch. He/she has worked nine hours, eight of which are paid at straight time and one hour at time-and-a-half. The additional hour is paid at the employee's regular rate of pay for the meal period violation. No waiver is available for working lunches.

On-Duty Meal Periods

Within the Industrial Welfare Commission Wage Orders there is provision for an "on-duty" meal period. A written agreement is required.

This is not a waiver, but an agreement for an "on-duty" meal period allowed under special circumstances. A working lunch does not appear to meet the criteria necessary to justify an "on-duty" meal period.

If an employee is required by the employer to attend a luncheon, dinner or other work-related meal or training accompanied by a meal, the employer must pay for the cost of the meal.

Limited Waiver

A limited waiver of meal period requirements is possible in two situations:

- If a work period of not more than six hours will complete the day's work, the meal period may be waived by mutual consent of the employer and employee.
- An employer may not require an employee to work more than 10 hours in a workday without providing a second meal period. This second meal period may be waived if there are no more than 12 hours worked.

Neither of these waivers requires a written waiver — only mutual consent of employer and employee.

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