

**WEST VIRGINIA UNIVERSITY
BOARD OF GOVERNORS
POLICY 50**

MEAL BREAKS

West Virginia University and Regional/Divisional Campuses

Section 1. General

- 1.1 Purpose. - To outline the circumstances under which meal breaks must be offered, and when a break requires that the employee be compensated for time worked.
- 1.2 Authority. – 29 USCS §§201 to 219 (Fair Labor Standards Act of 1938); 29 CFR 785.19; 29 CFR 785.47; W. Va. Code §12-3-13; § 21-3-10; § 21-3-10a; § 21-6-7.
- 1.3 Scope. – This policy applies to all employees of the West Virginia University Board of Governors.
- 1.4 Effective Date. – April 4, 2008
- 1.5 Revision History. – This is the first meal break policy implemented by the West Virginia University Board of Governors.

Section 2. Policy

- 2.1. During the course of a workday of six (6) or more hours, all supervisors shall allow employees to take at least a twenty (20) minute meal break. This provision shall be required in all situations where the employee is not afforded necessary breaks and/or permitted to eat lunch while working.
- 2.2. If the employee is under the age of eighteen (18), the supervisor shall require a meal break after five (5) continuous hours of work. The meal break must be at least thirty (30) minutes in duration.
- 2.3. Generally, there is not a requirement that supervisors allow employees to leave the premises or the work site for their meal break. However, supervisors shall not require or allow employees to take food or drink into areas where hazardous conditions or substances exist. In such situations, supervisors must require that meal breaks be taken elsewhere.

2.4. Compensation for Meal Breaks:

2.4.1. Meal breaks are not compensated if:

- the duration is at least thirty (30) minutes, or longer, although a shorter period may qualify under special conditions; and
- the employee is completely relieved of active and inactive duties for the purpose of eating regular meals.

2.4.2. If an employee is not excused from job duties, or if he/she is recalled to job duties, the employee is entitled to pay for compensable work, including work that is not *de minimis* in nature. (In the context of this policy, *de minimis* refers to insubstantial or insignificant periods of time beyond the scheduled working hours, which cannot as a practical administrative matter be precisely recorded for payroll purposes.) However, employees will not be compensated if they are simply placed on-call, or are required by their supervisor to carry a pager, radio, or cell phone during their meal breaks.

2.5. The supervisor shall schedule the meal break, in coordination with the operational needs of the University, and employees must seek approval from their supervisors if deviation from the scheduled meal break is necessary.

2.6. Meal breaks should occur at a scheduled time, or within a specified period of the day which, in light of the employee's working hours, is suitable for a normal meal break.

Section 3. Responsibility for Implementation

3.1 The employee's immediate supervisor is responsible for ensuring that the employee receives and takes meal breaks, and receives appropriate compensation, when applicable, in accordance with this policy.

Section 4. Responsibility for Interpretation

4.1 Responsibility for interpretation of this policy rests with the Vice President for the Division of Human Resources.