

Must Vermont municipal employers provide their employees with a lunch break?

Yes. Although the federal Fair Labor Standards Act (FLSA) *does not* mandate that an employer provide meal or rest periods, Vermont law does. In 1997, the Vermont Legislature added a provision to the employment laws that states:

“An employer shall provide an employee with ‘reasonable’ opportunities during work periods to eat and to use toilet facilities in order to protect the health and hygiene of the employee.” 21 V.S.A. § 304

To determine what is “reasonable,” we suggest using federal regulations regarding compensation as a guide. A bona fide meal period *is not* work-time, and does not include coffee breaks or snack time – those are ‘rest’ periods. The intent of a meal period is to free employees from work duties so that they can sustain themselves by eating and relaxing. It is not necessary that the employee be permitted to leave the premises if he or she is otherwise completely freed from duties during the meal period. Ordinarily, 30 minutes or more is long enough and is common among employers. The general rule is that if an employee is given 30 minutes or more to eat, the employee need not be paid for that period of time. If, however, the employee is required to use that time to work, it is compensable. For example, if an employee must remain at his or her desk during the mealtime to answer the telephone, that time must be included as “time worked.” 29 C.F.R. 785.19(a). Also, there is nothing that prohibits an employer from offering paid lunch breaks as part of an employee benefit package (although we are not aware of any employer that does this).

In contrast with the general lunch break rule, short rest periods or coffee breaks (usually five to 20 minutes long) are counted as hours worked. 29 C.F.R. 785.18. Local governments, like any other employer, must comply with the law.

VLCT News, February 2000