



Ask Fisher Phillips

Insights

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Our Dealership Practice Group represents thousands of dealerships all across the country, from large consolidators to regional groups to single dealerships. Because we have worked so closely with so many dealerships for so many years, we have acquired an in-depth understanding of dealership operations as well as a wealth of practical experience in dealing with dealers' unique labor and employment issues.

In "Ask Fisher Phillips," we take some of the more common dealership questions and provide our response and advice. This section is based on our clients' real-life questions. But don't worry . . . all names have been removed to protect the innocent!

QUESTION:

If we have our new hires come to the dealership to complete employment-related forms and basic job training before their first day of work, do we have to pay them for that time?

ANSWER:

The Fair Labor Standards Act defines hours worked as all time the employee is "suffered or permitted to work." This includes time spent attending training, orientation, and other new-hire activities that are set out for the employer's benefit.

However, you do not have to pay the employees their usual rates or commissions during new-hire training and orientation. Instead, you may pay a reduced rate or set forth an alternate (and less expensive) pay plan for training periods. You simply need to be sure that any nonexempt employees are paid at least the applicable state or federal minimum wage for all hours worked and are paid time and a half their regular rate for all hours worked over 40 in a workweek.