

Fact Sheet #33: Residential Care Facilities (Group Homes) Under the Fair Labor Standards Act

This fact sheet provides general information on [minimum wage](#), [overtime pay](#) and child labor requirements of the [Fair Labor Standards Act \(FLSA\)](#) as they apply to residential care facilities, including group homes, board and care facilities. It is designed to alert employers to certain employment practices that must be followed to ensure compliance with the FLSA.

Characteristics

The residential care industry includes all firms primarily engaged in providing residential social and personal care for children, the aged, and special categories of persons with some limits on the ability for self-care, but where medical care is not a major element. Employees may perform work at one or more locations and in some instances may reside on the premises.

Coverage: The FLSA applies to employees of certain institutions primarily engaged in the care of sick, aged, mentally ill or defective clients who reside on the premises. The Act applies whether the institution is public or private or is operated for profit or not-for-profit.

Requirements

Minimum Wage: All non-exempt employees must be paid the Federal [minimum wage](#) on their regularly scheduled payday.

Overtime: All non-exempt employees must be paid overtime at a rate of time-and-one-half the regular rate of pay for each hour of overtime worked. Residential care facilities must pay overtime after 40 hours in a 7-day workweek, or (under prescribed conditions), may adopt agreements with their employees to pay time-and-one-half overtime rates for all hours worked over 8 in any workday or over 80 in a 14-day work period, whichever is the greater number of overtime hours.

Recordkeeping: Employers are required to maintain accurate payroll and daily and weekly time records. Time records must be preserved for two years and payroll records must be kept for three years. Employers must also record certain identifying information for employees including their name in full, their social security number, and the dates of birth for employees under age 19.

Exemptions: Certain employees whose primary duties are managerial, administrative, or professional in nature, as specifically defined by the Department of Labor, may be exempt from the FLSA's [minimum wage](#) and overtime pay requirements.

Youth Employment: The FLSA sets a minimum age of 14 for most youth employed in covered non-agricultural employment. Fourteen- and 15-year-olds can work for limited periods of time each day (outside school hours) in specified occupations which do not interfere with their schooling, health, or well-being. Sixteen- and 17-year-olds may work at any time for unlimited hours in all jobs that have not been declared hazardous by the Secretary of Labor.

Common Industry Problems

Recordkeeping - Failure to keep accurate records of daily and weekly hours worked.

Uncompensated Time -Failure to pay for [all the hours](#) that an employee works. Non-exempt employees must be compensated for any time that they perform activities required or permitted by the employer.

- Employees working tours of duty of less than 24 hours must be paid for sleep time. Certain special conditions apply to employees residing on the premises for extended periods of time and their relief workers which may allow the employers to deduct up to eight hours of sleep time per day in some cases.
- Employees required or permitted to perform duties during normal "off-duty" time must be compensated.
- Employees must be paid for attendance at staff meetings and most training programs.
- Family members (husband and wife, for example), who work together must each receive proper compensation for the hours he/she worked.

Regular Rate - Failure to properly calculate employees' regular rate of pay (base for computing time-and-one-half overtime premium).

Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

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