



September 20, 2004

FLSA2004-13NA

Dear **Name ***,

This is in response to your request for an opinion regarding whether the method the City of **Name *** uses to compensate its firefighters for attending out-of-town training classes complies with the provisions of the Fair Labor Standards Act (FLSA).

You state that the City counts all time spent in approved training classes as hours worked, regardless of whether the training is required by law or is voluntary. Employees are paid for travel time as well. Further, because the City wishes to assure that the firefighters do not lose pay while attending out-of-town classes, the City has always paid them for a full 24 hours for any 24-hour shift that they miss while in training. For example, if a firefighter who spends an eight-hour day in training and, thus, cannot return in time to complete his or her regularly scheduled 24-hour shift, it is the City's practice to pay the employee for 24 hours rather than 8. If, during a three-day training session of eight hours per day, a firefighter misses three 24-hour work shifts, the City pays the firefighter for 72 hours even though the total hours actually worked during the period was only 24.

However, if during attendance at a three-day training session of eight hours per day a firefighter misses only one 24-hour work shift, the City pays for only 24 hours (plus travel time) since the total time spent in training did not exceed the 24 work-shift hours. If the training lasts for four or five days, and a firefighter misses only one 24-hour work shift, the City pays for the 24-hour shift, plus 8 hours per day for the fourth and/or fifth day of training. The firefighters disagree with this method of compensation and you wish to know whether the City's method complies with the provisions of the FLSA.

It is the firefighters' position that when they miss only one 24-hour shift during attendance at two or three days of training the City should pay them for the 24-hour shift that they missed plus eight hours a day for each additional day of training. Thus, a firefighter who missed one 24-hour shift during three days of training would be paid for 40 hours, instead of 24 (plus travel time).

The FLSA requires employers to pay for all hours worked. It does not require additional pay for hours not worked as some of the City's firefighters request. Based on the examples of compensation you have provided, it is our opinion that the City's method of calculating firefighters' pay during weeks that include out-of-town training meets the requirements of the FLSA.

This opinion is based exclusively on the facts and circumstances described in your request and is given on the basis of your representation, explicit or implied, that you have provided a full and fair description of all the facts and circumstances which would be pertinent to our consideration of the question presented. Existence of any other factual or historical background not contained in your request might require a different conclusion than the one expressed herein. You have represented that this opinion is not sought by a party to pending litigation concerning the issue addressed herein. You have also represented that this opinion is not sought in connection with an investigation or litigation between a client or firm and the Wage and Hour Division or the Department of Labor.

We trust that the above information is responsive to your inquiry.

Sincerely,

Barbara R. Relford
Office of Enforcement Policy
Fair Labor Standards Team

** Note: The actual name(s) was removed to preserve privacy in accordance with 5 U.S.C. 552 (b)(7).*