

FLSA 1205

June 1, 1987

This is in response to your communication of May 14, with enclosures, on behalf of *** of the Association of Public School Employees. is concerned about the application of the Fair Labor Standards Act (FLSA) to school bus drivers who are employed by the *** Independent School District (the School District).

The FLSA is the Federal law of most general application concerning wages and hours of work. It requires that all covered and nonexempt employees be paid not less than the minimum wage of \$3.35 an hour and not less than one and one-half times their regular rates of pay for all hours worked over 40 in a workweek. The provisions of FLSA apply to all employees of State and local governments except those who are specifically excluded in section 3(e)(2)(C) of FLSA and to those who may qualify for exemption from the minimum wage and/or overtime pay requirements of the Federal law.

On January 16, the Department of Labor published final regulations, 29 CFR Part 553, which implement the Fair Labor Standards Amendments of 1985. These regulations contain rules concerning statutory exclusions and exemptions, recordkeeping requirements, and compensatory time provisions which apply to State and local government workers in general, in addition to specific rules for volunteers and for fire protection and law enforcement employees. A copy of the regulations is enclosed for your information.

In her letter to you, *** indicates that the school bus drivers are not paid for their mandatory attendance at a 20-hour, driver recertification course. The State of *** requires the drivers to attend this course every 3 years as a prerequisite for retaining their license to operate school buses. Consequently, individuals cannot be employed by the School District as school bus drivers unless they attend the recertification course. You wish to know if the school bus drivers must be paid for the time which they spend in attending this required course.

It is our understanding that *** has been advised by the *** Wage and Hour Area Office that FLSA does not require payment for the time spent by the school bus drivers in the recertification courses. This is further explained in section 553.226(b)(2) of the regulations which states that attendance outside of regular working hours at specialized or follow-up training, which is required for certification of employees of a governmental jurisdiction by law of a higher level of government, does not constitute compensable hours of work.

We trust that the above is responsive to your inquiry. If we can be of further assistance in this matter, please let us know.

Sincerely,

Paula V. Smith
Administrator

Enclosure