

March 16, 1983

This is in reply to your letter of February 18, 1983, requesting an opinion as to whether time spent by employees in after hours' grievance meetings is compensable hours of work under the Fair Labor Standards Act.

You state the employer is a health care institution whose employees are not represented for purposes of collective bargaining by any labor organization. The employer has a five-step internal grievance system, through which an employee (including a discharged employee) may obtain consideration of claims that the employer has violated an established personnel policy as it relates to that employee's employment. The employer's policy provides, that throughout the course of processing a grievance pursuant to this procedure, the grievant may meet with administrators of the employer and may appear at a hearing before an impartial Grievance Committee at which time the merits of the employee's grievance will be discussed. At each of the meetings prescribed by the grievance procedure, the grievant is permitted to have one other employee present during the discussion.

Because of the nature of the employer's business a grievant may find it necessary to meet with the employer's administrators or with the Grievance Committee at times during which he/she is not scheduled to work. You ask whether time spent by a grievant outside his/her regularly scheduled work hours attending grievance meetings is compensable. Similarly, whether time spent by an employee accompanying a grievant outside his/her regularly scheduled work hours is compensable. You do not believe these situations fall within the meaning of section 785.42 of 29 CFR Part 785.

It is our position that voluntary participation in labor-management committees, such as the grievance meeting, held outside of regular working hours is not considered hours worked within the meaning of the Act. Under the circumstances described in your letter, when the meeting is held after working hours and the employee is not required to attend by being disciplined for his/her failure to do so, we do not take the position that the Act requires that time so spent be counted as hours worked.

However, if the meeting time occurred during a period of time when the employee would have otherwise been working had they not been engaged in such grievance activities, such as overtime work, the time is compensable.

We trust the above is responsive to your inquiry.

Sincerely,

William M. Otter
Administrator