

FLSA-136

June 20, 1983

This is in reply to your letter of May 27, 1983, concerning the application of the Fair Labor Standards Acts (FLSA) to employees of a residential care facility for the mentally retarded. The employees wish to "volunteer" their personal time to participate in various activities with the residents of the facility outside their scheduled duty hours. The question is whether the FLSA requires that such volunteer time be counted as compensable hours of work.

You also enclosed a copy of a letter from *** Director, Developmental Services Program Office, Department of Health and Rehabilitative Services for the State of *** concerning such volunteer activities.

We addressed some of the questions you raised in our May 26, 1983 response to Mr.*** concerning volunteer activities (copy enclosed). Also enclosed is WH Publication 1297 which discusses the Department's position with regard to volunteer services.

Under the principles expressed in our letter to Mr.*** employees who are not specifically exempt from the minimum wage and overtime pay provisions of the FLSA, and who are directly involved with client care would have to be compensated for time spent with clients on outings and field trips even though such trips are outside normally scheduled working hours. Likewise, time spent in companion activity with clients outside normal working hours by those directly associated with their care would be considered working time. However, the same activities performed by dietary, housekeeping, or maintenance workers outside their working hours would be considered volunteer work not associated with their normal job duties.

The time spent by employees directly in the fundraising project of a local charity not connected with the residential care facility would not have to be compensated in accordance with the provisions of the FLSA. Therefore, the service organization members of the residential care facility participating in the car wash for local charity would be engaged in a volunteer activity outside the requirements of the Act. However, compensation is required for the time spent by staff members from the facility who attend the car wash to supervise residents of the facility.

Please let us know if you have further questions.

Sincerely,

James L. Valin
Assistant Administrator
Wage and Hour Division

William M. Otter
Administrator

Enclosures