

**FLSA - 1176**

May 10, 1988

This is in response to your letter of February 18 concerning the application of FLSA to certain firefighters who are engaged in representing their fellow bargaining unit members on labor-management committees for a variety of matters. You state that members of the union make themselves available for such representation activity on a voluntary basis during their off duty hours. You apparently wish to know whether the time spent in such activities is compensable under FLSA.

You state that traditionally employees representing their coworkers in labor-management activities have not received compensation. You refer to section 553.103 of Regulations, 29 CFR Part 553 (copy enclosed). That section discusses certain volunteer services provided by employees to their public employer. However, section 553.103 does not apply to the situation you describe. As indicated in section 553.221 of Part 553, the general rules on compensable hours of work are set forth in Regulations, 29 CFR Part 785 (copy enclosed).

Section 785.42 of Part 785 states our position with respect to time spent in certain labor-management activities such as the adjustment of grievances during working hours. Our position is the same whether the employer is public or private. Where a bona fide union is involved, the counting of such time as hours worked will be left to the collective bargaining process or to the custom or practice under the collective bargaining agreement. Likewise, the counting of time spent in labor-management activities as hours worked, when performed on a voluntary basis during off-duty hours, will be left to the collective bargaining process or to the custom or practice under the collective bargaining agreement.

We trust that the above is responsive to your inquiry.

Sincerely,

Paula V. Smith  
Administrator