

FLSA-63

January 24, 1990

This is in response to your letters concerning the application of the Fair Labor Standards Act (FLSA) to trooper recruits. You are concerned about the compensability of certain hours that trooper recruits spend in attending training classes and related activities during law enforcement training at the Highway Patrol's training academy. We regret the delay in responding to your inquiry.

It is our understanding that after new trooper recruits are hired by the State, they are sent to the academy for 14 weeks of law enforcement training. During this period of their employment, recruits live on the campus of the academy, attend classes, and participate in related activities five days per week. On Friday evening they are dismissed and are free to leave the campus. They must report back to the academy by 10:00 p.m. Sunday evening. The entrance salary paid recruits during academy training is approximately \$1,982 per month. You wish to know whether the enforcement policy referred to in section 785.32 of Interpretative Bulletin, 29 CFR Part 785 would have application to the time spent by the trooper recruits in training and related activities at the academy.

The policy expressed in section 785.32 with respect to supplemental training of apprentices predates the application of FLSA to public sector employees (26 FR 190, January 11, 1961). The policy was intended to apply to the time spent by apprentices employed in the more traditional blue-collar crafts and trades occupations in supplemental classroom training related to their particular craft or trade. For example, this policy was intended to apply to the time spent by an apprentice tool and die maker in classroom training in blueprint reading or shop mathematics, which are critical related skills necessary to becoming a full-fledged tool and die maker. Such classroom training is in addition to the time the apprentice spends in hands-on work on the job under the direction of a journeyman. We do not consider the enforcement policy expressed in section 785.32 to be applicable to trooper recruit training as described above, notwithstanding the fact that a State may have an apprenticeship program for its trooper recruits that has been registered and approved by the Bureau of Apprenticeship and Training of the Department of Labor.

However, as the result of the Fair Labor Standards Amendments of 1985, Regulations, 29 CFR Part 553, were issued. These Regulations contain rules which apply to State and local government workers in general as well as specific rules for fire protection and law enforcement employees. A copy of the Regulations is enclosed for your information. Section 553.226 of the Regulations describes situations where time spent by employees of State and local governments in required training is considered to be noncompensable. As indicated in section 553.226(c), police officers or firefighters, who are in attendance at a police or fire academy or other training facility, are not considered to be on duty during

those times when they are not in class or at a training session, if they are free to use such time for personal pursuits. Such free time is not compensable.

We trust that the above is responsive to your inquiry.

Sincerely,

Nancy M. Flynn
Acting Administrator

Enclosures