

SCA-14

March 21, 1977

This is in reply to your telegram of February 25, 1977 concerning the sick leave provision specified as a fringe benefit in Wage Determination 68-353 (rev.-15).

The wage rates and fringe benefits set forth in that determination are those contained in a collective bargaining agreement between the *** Maintenance Contractor's Association and Services Employees International Union, Local No. 18, based upon a finding that such wage rates and fringe benefits were furnished to a majority of workers performing janitorial duties in Alameda and Contra Costa Counties.

The collective bargaining agreement specifically provides that employees shall be furnished 5 days (40 straight time hours) of sick leave per year or a proportion thereof based on the employees regular daily schedule of working hours. Since the collective bargaining agreement, like the Service Contract Act and regulations thereunder, makes no distinction between part-time and full-time employees, Wage Determination 68-353 did not state any requirement to furnish pro rata sick leave to part-time employees. In other words, part-time employees must, in general, be provided with sick leave and other fringe benefits representing a proportionate amount of the benefits to which full-time employees are entitled in the absence of any express limitations set forth in a wage determination.

Thus, an employee who has been continuously employed by the employer for a period of one year, and who regularly works twenty hours in a week is entitled to one-half of the amount otherwise due a full-time employee or 2-1/2 days based on a standard 8 hour day and 40 hour workweek. Likewise, an employee who works 37 1/2 hours in a 40 hour workweek would be due a pro rata amount ($37 \frac{1}{2}/40$ ths) of the sick leave benefit otherwise due regular full-time employees. This same approach would also be applicable for the other example in your telegram. A pro rata share of $10 \frac{1}{2}/40$ ths would be due to an employee who normally worked 10 1/2 hours a week.

In this regard, your attention is also directed to sections 4.51 through 4.55 of Regulations 29 CFR, Part 4, copy enclosed.

If you have any further questions, please feel free to contact us.

Sincerely,

Ray J. Dolan
Assistant Administrator