

FLSA-1085

April 4, 1978

I regret the delay in responding to your letter concerning the "deskilling" of jobs to be performed by handicapped workers in sheltered workshops certificated under Regulations, Part 525.

As you indicated, this is a complex area which could significantly affect the handicapped workers and the operations of the workshop. You propose a system which would adjust the prevailing industry wage used by a workshop downward to accommodate differences between the way the job is ordinarily performed in industry wage used by a workshop. While such an approach is an interesting concept, it is too subjective, would be very difficult to enforce, and would complicate the task of determining commensurate wage for the handicapped workers.

Where the duties and responsibilities of the job performed in the workshop are essentially the same as those in industry, the prevailing wage paid in industry for that particular job shall be used by the workshop in determining the wage rate for handicapped workers and workshop. Furthermore, the workshops have a responsibility to search for like jobs in industry in the vicinity for purposes of obtaining prevailing wage information.

However, where jobs in industry with essentially the same duties and responsibilities cannot be identified, the prevailing wage shall be based on the general characteristics of the job - skill content, whether primarily handwork or machine assisted and light or heavy duty. Thus, a simple hand-assembly subcontract would be an unskilled, hand, light-duty operation and the prevailing wage paid in the community for this general category of work would be the applicable base wage rate. Of course, in no case may the prevailing wage be less than the statutory minimum wage under the Fair Labor Standards Act (FLSA).

Sincerely,

Xavier M. Vela
Administrator