

FLSA-643

April 16, 1979

This is in reply to your letter of February 27, 1979, requesting an opinion concerning the deduction of a fee required by a State agency from employees' wages.

We have considered your comments under the provisions of the Fair Labor Standards Act, the Federal law of most general application concerning wages and hours of work. The major highlights of this law concerning wage payment are contained in the enclosed copy of 29 CFR Part 531.

Deductions from wages that do not result in an employee receiving less than the applicable minimum wage (currently \$2.90 an hour) and proper overtime compensation are not violative of the monetary requirements of the Act. However, any deductions which would bring a covered and nonexempt employee's wages below these standards would be illegal.

The deductions you describe in your letter would be illegal if they reduce the employee's wages below the minimum wage and overtime pay provisions of the Act. This is true since these deductions are for the benefit of the employer and not the employee. As stated in section 531.3 of the enclosed bulletin the cost of furnishing "facilities primarily for the benefit or convenience of the employer will not be recognized as reasonable and may not therefore be included in computing wages.

If you have any further questions, you may wish to contact our Wage and Hour Area Office at Room 2946, 26 Federal Plaza, New York, New York 10007 (telephone: (212) 264-8185). The people in that office will be pleased to assist you in any way possible.

Sincerely,

Xavier M. Vela
Administrator

Enclosure