

FLSA-829

April 18, 1983

This is in reply to your letter of April 5, 1983, requesting on behalf of a client an expansion of our response of March 23, 1983, to your law firm, regarding what articles of clothing constitute a uniform under the Fair Labor Standards Act.

You state the only changes in the facts previously submitted and for which our opinion is requested concerns whether your client may require employees to wear white shirts or blouses and trousers or slacks which are either a dark color such as dark blue or black, or white. As in the previous letter your firm submitted, the style, quality and material of the trousers and shirts are not specified by the employer. You state that whether the employee wears dark trousers or white trousers is solely the employee's choice.

If an employer merely prescribes a general type of ordinary basic street clothing to be worn while working and permits variations in details of dress, the garments chosen by the employees would not be considered to be uniforms. Where employees are segmented by groups (such as respiratory therapists and dietary personnel) and each employee is not given the options listed above, our answer would be that the clothing is a uniform. However, if any employee of your client has the option to wear white shirts or blouses and dark blue, black or white trousers or slacks which are ordinary basic street clothing, it is our opinion that the clothing does not constitute a uniform.

Sincerely,

William M. Otter
Administrator