



U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division
Washington, D.C. 20210

July 14, 2006

FLSA2006-25

Dear **Name***,

This is in response to your letter regarding whether your recordkeeping system complies with the recordkeeping requirements of the Fair Labor Standards Act (FLSA). It is our opinion that the records maintained by the employer fulfill the recordkeeping requirements of FLSA section 11(c).

You write on behalf of a Board of Education (Board) that pays employees on an annual basis for work performed in a period shorter than a year. Each employee is given a daily rate, which is multiplied by the number of days the employee works each year to determine the employee's annual wages. This amount is divided into 24 semi-monthly paychecks. These paychecks are distributed according to a pay schedule disseminated to all employment locations. In addition to this information, the Board maintains a detailed earnings history for each employee that indicates each check paid to the employee, the check number and date, the gross amount of the check, any deductions, and the net amount of the check. You provided a sample copy of one of the records kept by the Board on its employees. This record includes:

- the employee's dates of duty;
- the number of days to be worked by the employee, ranging from 200-230 days;
- the employee's name;
- the employee's social security number;
- the employee's beginning date and last day worked;
- the employee's years of experience;
- the employee's days of work; and
- the employee's daily rate and semi-monthly salary.

One of your employees has questioned if the records maintained by the Board comply with the "date of payment and the pay period covered by the payment" requirement of 29 C.F.R. § 516.2(12). Your inquiry is based on the assumption that the employee is working 40 hours or less each week.

Section 11(c) of the FLSA (copy enclosed) provides that every employer covered by the Act:

shall make, keep, and preserve such records of the persons employed by him and of the wages, hours, and other conditions and practices of employment maintained by him, and shall preserve such records for such periods of time, and shall make such reports therefrom to the Administrator as he shall prescribe by regulation or order as necessary or appropriate for the enforcement of the provisions of this chapter or the regulations or orders thereunder.

The Department's recordkeeping regulations can be found at 29 C.F.R. Part 516 (copy enclosed). Employers must maintain and preserve the following information on each employee covered by sections 6 and 7(a) of the FLSA:

- (1) Employee's full name and social security number,
- (2) Home address, including zip code,
- (3) Date of birth, if under 19,
- (4) Sex and occupation,
- (5) Time of day and day of week on which the employee's workweek begins,



- (6) Regular hourly rate of pay for any workweek in which overtime compensation is due, basis on which employee's wages are paid, and amount of each payment excludable from the regular rate,
- (7) Hours worked each workday and total hours worked each workweek,
- (8) Total daily or weekly straight-time earnings or wages,
- (9) Total premium pay for overtime hours,
- (10) Total additions to or deductions from wages paid each pay period,
- (11) Total wages paid each pay period,
- (12) Date of payment and the pay period covered by payment.

29 C.F.R. § 516.2. However, it is not necessary for the employer to maintain all of the above for employees who are exempt under FLSA section 13(a)(1). See 29 C.F.R. § 516.3.

You submitted calendars showing the dates employees are paid and how the number of days an employee works each year is calculated. The Board maintains a worksheet in every employee's personnel file that reflects this information, showing the specific days the employee will work. This information fulfills the "date of payment and the pay period covered by payment" requirements since, although each paycheck covers 1/24 of the employee's annual wages rather than the hours actually worked in that specific pay period, it is possible to determine from the worksheets and the employee's daily rate which work days each paycheck actually covers. See Field Operations Handbook, §§ 30b12 and 32b08 (copies enclosed). Additionally, for purposes of this inquiry, we assume that the other recordkeeping requirements listed above are fulfilled by the records kept by the Board. Therefore, it is our opinion that the Board fulfills the recordkeeping requirements of the FLSA.

This opinion is based exclusively on the facts and circumstances described in your request and is given based on your representation, express or implied, that you have provided a full and fair description of all the facts and circumstances that would be pertinent to our consideration of the question presented. Existence of any other factual or historical background not contained in your letter might require a conclusion different from the one expressed herein. You have represented that this opinion is not sought by a party to pending private litigation concerning the issue addressed herein. You have also represented that this opinion is not sought in connection with an investigation or litigation between a client or firm and the Wage and Hour Division or the Department of Labor.

We trust that this letter is responsive to your inquiry.

Sincerely,

Alfred B. Robinson, Jr.
Acting Administrator

Enclosures:
FLSA § 11(c)
29 C.F.R. Part 516
Field Operations Handbook, §§ 30b12 and 32b08

*** Note: The actual name(s) was removed to preserve privacy in accordance with 5 U.S.C. § 552(b)(7).**