

U. S. DEPARTMENT OF LABOR
WAGE AND HOUR DIVISION
Washington

INDUSTRIAL TRAINING PROGRAMS UNDER THE WAGE HOUR LAW

To encourage employee training programs for the achievement of higher skills, the Wage and Hour Division, U. S. Department of Labor, today announced that attendance at such training programs by employees would not be considered working time requiring compensation by the employer, provided that such attendance met four criteria.

Those criteria are:

1. Attendance on the part of the employee is in fact voluntary. No training program shall be considered voluntary if a condition of the employee's continued employment in his present job is attendance at the training program.
2. The employee shall not produce any goods or perform any ~~other~~ productive work during such periods of training.
3. The training course must be given outside of regular working hours.
4. The training course is intended to train the employees to a new, different, or additional skill, and is not intended to make the employee more efficient at doing what he has been doing in his present job.

These criteria supersede the criteria for training programs set forth in paragraph 15 of Interpretative Bulletin 13, but do not supersede the provisions of that Bulletin with respect to safety meetings, related supplemental instruction of bona fide apprentices, correspondence courses, and attendance in educational institutions.

With respect to this policy on the part of the Wage and Hour Division, Colonel Fleming said that the Division wants to encourage employers to train employees to

higher skills, and that in cooperation with the Defense Commission and the Department of Commerce, it was felt that setting these four definite and simple criteria would permit employers to determine readily whether a training program would be considered by the Wage and Hour Division to be "hours worked."

An example of a training program which under these four criteria would not be considered working time is that of a welder who is working in an automobile plant welding steel automobile frames. The employer has accepted an order for airplane fuselages, in the construction of which employees having the skill to weld aluminum will be required. The employer gives to any welder in his organization the opportunity, if he chooses, to take a course after working hours in welding aluminum. In such course no finished product is made, but the end product of the welding is scrapped. There is provision that if the welder does not require this higher skill he shall be permitted to continue to be a welder working for the employer on steel automobile frames.

Another example is that of a typist. An expansion of the plant gives opportunity for stenographers. The employer offers to any of his typists who choose an opportunity after work to be trained for stenographic work. Such training is not made a condition of their continuing as typists and no regular office work is done for the employer during the training period.

An example of obtaining a different skill is the case of a punch press operator who knows that his employer will install drop forging machines, employment in the operation of which will yield a higher rate of pay. The employer offers a certain number of punch press operators and employees in other skills an opportunity after work to be trained on drop forging machines. The end product of the forging is scrapped. Punch press operators who do not take this course are allowed to continue in employment as punch press operators.

An example of the training course which does not meet with the four criteria is that of a sewing machine operator in a garment factory whose productivity is such that it is marginal in comparison with the median productivity of all the other sewing machine operators. The employer said "you are too slow and unless you practice on waste material after work and get up your productivity and speed you cannot work here any more." This would be hours worked for two reasons: (1) attendance would not be voluntary and (2) the employee would not be learning a new, different or additional skill.

Colonel Fleming said that the basic thought behind the four criteria was that there should be no exploitation of labor by using alleged training programs to effect a stretch-out or speed-up in the work of employees in their present positions. The program must essentially be for the purpose of providing better employment by adding skills primarily for the benefit of the employee, although, of course, the program would also benefit the employer by providing him with certain skills in which his labor market is deficient.

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