

4-29-97

This is in response to your inquiry on behalf of
of _____ is concerned about the
mandatory charges that her employer,
deducts from her pay for cafeteria food services at work
whether she chooses to eat at the facility or not.

We have considered your constituent's comments under the provisions of the Fair Labor Standards Act (FLSA), which is the Federal law of most general application concerning wages and hours of work. This law requires that all covered and nonexempt employees be paid not less than the minimum wage of \$4.75 an hour (increasing to \$5.15 an hour effective September 1, 1997) and overtime pay of not less than one and one-half times their regular rates of pay for all hours worked over 40 in a workweek. The major provisions of the FLSA are described in the Handy Reference Guide to the Fair Labor Standards Act.

Under the FLSA, wages may take the form of cash or "facilities" as defined in 29 CFR Part 531. Section 3(m) of the FLSA permits an employer to count towards its minimum wage obligation the reasonable cost or fair value of board, lodging, or other facilities furnished to employees. As indicated in §531.29, §3(m) applies to situations where board, lodging or other facilities are furnished in addition to a stipulated wage or where such charges are deducted from a stipulated wage.

Meals furnished to employees are regarded as primarily for the ~~benefit~~ and convenience of the employee. See §531.32. Thus, deductions for meals would not violate the minimum wage and/or overtime requirements of the FLSA. (Or violate the salary basis requirements for certain "exempt" employees). Although §531.30 of the regulations provides that an employee's acceptance of facilities must be "voluntary and uncoerced," such provisions have been rejected by several appellate as well as district courts with respect to meals provided to employees. Wage and Hour

no longer enforces the "voluntary" provision with respect to meal credits or deductions.

Thus, where an employee is required to accept a meal provided by the employer as a condition of employment, Wage and Hour will take no enforcement action, provided that the employer takes credit (or makes deductions) for no more than the actual cost incurred.

If we can be of further assistance, please do not hesitate to contact this office.

Sincerely,

Daniel F. Sweeney
Office of Enforcement Policy
Fair Labor Standards Team

Enclosures