

Uniforms and Their Maintenance Under the Fair Labor Standards Act



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In response to many inquiries, the Wage and Hour Division has prepared the following statement which contains the answers to the most frequently asked questions about uniform procurement and maintenance under the Fair Labor Standards Act (FLSA).

- (1) (Q) When is an employer required to furnish an employee with a uniform?
- (A) The FLSA does not require that employees wear uniforms. However, if the wearing of a uniform is required by some other law, the nature of a business, or by an employer, the cost of the uniform is considered to be a business expense of the employer. If the employer requires the employee to bear the cost, it may not reduce the employee's wage below the minimum wage or cut into overtime compensation required by the Act. For example, if an employee who is subject to the statutory minimum wage of \$3.35 an hour is paid \$3.50 an hour and works 45 hours in the workweek, \$6.00 is the maximum amount the employer can legally deduct from the employee's wages and still satisfy the minimum wage and overtime requirements of the Act ($\$3.50 - \$3.35 = \$.15$; $\$.15 \times 40 \text{ hours} = \6.00). If the same employee works 30 hours in the workweek, \$4.50 is the maximum amount the employer can legally deduct from the employee's wages ($\$.15 \times 30 \text{ hours}$).
- (2) (Q) May an employer require a prospective employee to purchase a uniform as a condition of employment?
- (A) The FLSA does not forbid such a requirement. However, the employee must be reimbursed, no later than the next regular payday, to the extent that the cost of the uniform cuts into the minimum wage or overtime compensation required by the Act. See examples in Answer #1.

- (3) (Q) If an employee has a uniform provided by a past employer, which is acceptable to the new employer at the time of hire, must the new employer reimburse the employee for the cost of this uniform?
- (A) No, because the employee does not have to incur an additional expense in order to meet the new employer's uniform requirement.
- (4) (Q) In the above situation, suppose the employer agrees to pay the employee an amount in excess of the applicable minimum wage, with the understanding that the excess payment is to enable the employee to replace the uniform when it is worn out. Would such a policy be in compliance with the monetary provisions of the Act?
- (A) Yes, if the amount in excess of the minimum wage, when accumulated, is in fact sufficient to purchase a replacement uniform. For example, an employee subject to the \$3.35 an hour minimum wage who works 40 hours a week at a rate of \$3.55 an hour would accumulate \$8.00 a week toward the purchase of a uniform ($\$3.55 - \$3.35 = \$.20$; $\$.20 \times 40 = \8.00). If the uniform costs \$22, the employee would have enough money accumulated after 3 weeks to cover the cost of the uniform (3 weeks \times \$8.00 a week = \$24).
- (5) (Q) If an employer furnishes an employee with a required uniform, may the employer deduct the actual cost thereof from the employee's next paycheck?
- (A) The employer cannot make such a deduction, if by so doing the wages paid are reduced below the applicable minimum wage or overtime compensation required by the Act. However, a deduction which does not cut into the required minimum wage or overtime compensation is permissible. See examples in Answer #1.
- (6) (Q) If an employer is paying in excess of the applicable minimum wage, may (s)he prorate deductions for uniform costs over a period of paydays?
- (A) Yes, if the prorated deductions do not reduce an employee's wages below the required minimum wage or overtime compensation in any workweek. See examples in Answer #1.
- (7) (Q) When an employee is required to purchase a uniform the cost of which cuts into minimum wage or overtime compensation required by the Act, may the employer reimburse the employee periodically over the life of the uniform?

- (A) No. Reimbursement for the purchase of a uniform must be made promptly on the next regular payday, and may not be spread over the life of the garment. In other words, to the extent that the cost of a required uniform purchased during one workweek cuts into the minimum wage or overtime wages required by the Act during that workweek, the employee must be reimbursed on the next regular pay day. See examples in Answer #1.
- (8) (Q) May an employer who pays an employee more than the minimum wage deduct an hourly amount in order to recover uniform costs?
- (A) Yes. Deductions from wages for uniform costs which neither reduce the amount of pay below the applicable minimum wage rate nor reduce the amount of overtime compensation below that required by the Act do not result in a violation of the Act. See examples in Answer #1.
- (9) (Q) Sometimes an employer, instead of requiring that employees wear a uniform, instructs employees to wear dark colored trousers or skirts and dark colored shoes. Would these items be considered a uniform?
- (A) Each case of this type must be decided on the basis of all the particular facts. However, certain general guidelines apply. 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. For example, where an employer's only instructions to employees regarding their attire are that they wear dark colored trousers or skirts and dark colored shoes, such items of clothing would not constitute a uniform. On the other hand, where the employer does prescribe a specific type and style of clothing to be worn at work, e.g., where a restaurant or hotel requires a tuxedo or skirt and blouse or jacket of a specific or distinctive style, color, and quality, such clothing would be considered uniforms. Of course, any article of clothing which is associable with a specific employer, by virtue of an emblem (logo), or distinctive color scheme, would be considered a uniform.
- (10) (Q) Who is responsible for payment of uniform laundry costs?
- (A) Unless an employer is paying an amount sufficiently in excess of the applicable minimum wage, (s)he must reimburse employees for laundry and maintenance costs in order to prevent such costs from cutting into the minimum wage or overtime pay required by the Act. See examples in Answer #1.

(11) (Q) Where the actual cost of laundering a uniform has not otherwise been determined, what amount of reimbursement to the employee would the Wage and Hour Division accept as compliance?

(A) For enforcement purposes, the Wage and Hour Division will accept the payment to an employee of the following weekly amount. (The weekly amount may be paid on a daily basis by dividing the amount by 5, as also shown below.):

Effective January 1, 1981 -- \$3.35 per week or 67¢ daily

(12) (Q) May an employer reimburse an employee for this cost by utilizing an hourly supplement to the basic minimum wage?

(A) Yes, provided that the hourly supplement is a result of a bona fide collective bargaining agreement or that such hourly payments result in the employee receiving the full daily and weekly amounts for each workweek as shown above. Otherwise the daily or weekly supplement must be paid.

(13) (Q) How are part-time employees to be treated under this enforcement position?

(A) The Wage and Hour Division will accept the payment of the daily amount for each day of work, regardless of the length of the day.

(14) (Q) Are the weekly and daily amounts described above the only figures that may be utilized to reimburse an employee for uniform maintenance costs?

(A) No. This is an enforcement position only, and where it can be clearly demonstrated that the costs are higher, such amounts must be reimbursed to the employee.

(15) (Q) Is an employer responsible for payment of uniform laundry costs when uniforms are of a "wash and wear" material?

(A) If the uniforms are of a "wash and wear" material which requires only washing and tumble or drip drying, and if they can be laundered with other personal garments, a uniform maintenance reimbursement would not be required. However, for those uniforms which require daily or special laundering due to heavy soiling or usage, or which require ironing, dry-cleaning or patching and repairs due to the nature of the work, a uniform maintenance reimbursement would be required.