



March 30, 2004

FLSA2004-1NA

Dear *Name**,

This is in response to your June 29, 2000 letter requesting a Wage and Hour opinion relating to a restaurant chain's clothing requirements for its employees. We regret the delay in responding to your letter.

You asked whether work garments that the employer requires most of its employees to wear while on duty are uniforms, and whether the employer may require the employees to purchase such garments even if the cost would effectively initially reduce the wages below the minimum wage.

You described that employees are required to wear a navy blue, short sleeve, pullover, collared shirt sometimes referred to as a polo shirt or golf shirt. The shirts do not bear any logo and can be worn outside work. Employees are also required to wear either khaki colored shorts or khaki colored trousers, but neither with cargo pockets. The shorts or trousers do not bear any logo and can be worn outside work.

Whether certain types of dress that an employer requires employees to wear to work are considered uniforms for purposes of the Fair Labor Standards Act (FLSA) is a question of fact to be decided in the context of a given case. Although there are no hard-and-fast rules, the following principles are applicable. 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. 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 a skirt and blouse or jacket of a specific or distinctive style, color, and quality, such clothing would be considered uniforms. Based on the information provided in your letter, we are inclined to view the khaki shorts or trousers, and navy blue golf shirts required of the employees as ordinary basic street clothing and not a uniform under the FLSA. Accordingly, the restaurant may require the employees to wear such garments to work without reimbursing the employees for the cost.

Wage and Hour has published guidelines for employers regarding minimum wage issues that arise when employees are required to wear uniforms in Fact Sheet No 016. The Fact Sheet is reproduced in its entirety at <http://www.dol.gov/esa/regs/compliance/whd/whdfs16.htm>, and we are attaching a copy for your reference.

This opinion is based exclusively on the facts and circumstances described in your request and is given on the basis of your representation, explicit 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 questions presented. Existence of any other factual or historical background not contained in your request might require a different conclusion than the one expressed in this letter.

We trust that the above information is responsive to your inquiry.

Sincerely,

Barbara R. Relerford
Office of Enforcement Policy
Fair Labor Standards Team

*Note: * The actual name(s) was removed to preserve privacy.*