



New York State Department of Labor

Eliot Spitzer, Governor

M. Patricia Smith, Commissioner

February 6, 2008



Re: Request for Opinion
Uniforms
File No. RO-07-0132

Dear [REDACTED]:

I have been asked to respond to your correspondence of November 27, 2007, in which you request a written opinion on whether or not the clothing you provide to your employees is considered a uniform, thereby rendering you subject to the uniform maintenance rule. In your inquiry you state that employees are required to wear black dress slacks and a specific color and style of button - down dress shirt. You further state that said items do not contain any visible logo, and that they may be worn by the employee outside of work as part of their normal wardrobe. While at work the employee is required however to wear a nametag and hat, that when added to the clothing identifies the individual as a [REDACTED]'s employee. You point out that these clothing items are provided free of charge to the employee and are replaced free of charge when the item(s) are damaged, lost, or no longer wearable.

It is the Department's opinion that such items do not constitute a "required uniform" as described. Regulation 12 NYCRR §137-3.13 defines a "required uniform" as "clothing worn by an employee, at the request of an employer, while performing job related duties...It does not however, include clothing that may be worn as part of an employee's ordinary wardrobe." As the pants and shirt in question appear, by your description and representations, to be of the type that can be worn as part of a normal wardrobe they would not be considered "required uniforms." As such, these items are not subject to the maintenance allowances set forth in Regulation 12 NYCRR §137-1.8.

Please note that this opinion is based solely upon the information you provided in your correspondence of November 27, 2007. A different opinion could result if the information you provided was inaccurate, or if relevant facts were not disclosed.

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Should you have any further questions please do not hesitate to contact me.

Very truly yours,

Kristen L. Broden, Esq.
Senior Attorney

KLB
cc: Carmine Ruberto
Opinion File