



New York State Department of Labor
David A. Paterson, Governor
M. Patricia Smith, Commissioner

February 6, 2009

[REDACTED]

Re: Request for Opinion
Overtime
R0-08-0003

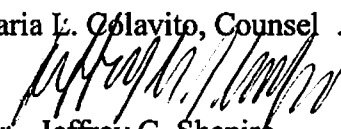
Dear [REDACTED]:

I have been asked to respond to your letter of December 28, 2007. Please accept my apology for the late response to your request. Your letter states that you are the [REDACTED] Internship Program for the [REDACTED]. The Program pays participants minimum wage for up to twenty-five hours per week, twenty of which are spent at an internship and five of which are spent with contracted community based organizations which provide various workshops and educational activities. Program participants are allowed to make up hours for holidays and other occasions where the internship site was closed, resulting in instances when the participants worked for more than forty hours including the five hours of educational activities run by the community based organizations. Your letter asks if the [REDACTED] is responsible for paying overtime for any participants whose combined work and internship hours exceed forty hours per week.

Please be advised that, as a governmental agency, the [REDACTED] is exempt from the overtime requirements of New York State Labor Law (*see* New York State Labor Law §651(5)(n)).

This opinion is based on the information provided in your letter of December 28, 2007. A different opinion might result if the circumstances outlined in your letter changed, if the facts provided were not accurate, or if any other relevant fact was not provided.

Very truly yours,

Maria L. Colavito, Counsel

By: Jeffrey G. Shapiro
Associate Attorney

cc: Carmine Ruberto

Tel: (518) 457-4380, Fax: (518) 485-1819
W. Averell Harriman State Office Campus, Bldg. 12, Room 509, Albany, NY 12240