

# DIVISION OF LABOR STANDARDS ENFORCEMENT

## ENFORCEMENT POLICIES AND INTERPRETATIONS MANUAL

46.6.4 **Changing Uniforms or Washing Up at Work.** Time spent changing clothes or washing up on the employer's premises is compensable if it is compelled by the necessities of the employer's business. (O.L. 1994.02.03-3; 1998.12.23) It should be noted, however, that for enforcement purposes, the Division utilizes a de minimis test concerning certain activities of employees (See *Lindow v. United States* 738 F.2d 1057 (9th Cir.1984)) Under this test the Division will consider (1) the practical administrative difficulty of recording the additional time; (2) the aggregate amount of compensable time, and (3) the regularity of the additional activity. (O.L. 1988.05.16)

46.6.4.1 The only federal definition of the term "hours worked" is contained in the FLSA at 29 U.S.C. § 203(o) which simply excludes "any time spent in changing clothes or washing at the beginning or end of each work day." Federal case law, however, has limited this exception and has held that any actions which are an integral and indispensable part of the employee's principal activity task are compensable. (*Steiner v. Mitchell*, 350 U.S. 247 (1956) holding that time spent showering and changing at the beginning and end of each day in a battery plant is compensable.)

46.6.5 **Training Programs, Lectures, Meetings.** The Division utilizes the standards announced by the U.S. Department of Labor contained at 29 CFR §§ 785.27 through 785.31 in regard to lectures, meetings and training programs:

Time spent by employees attending training programs, lectures and meetings are not counted as hours worked if the attendance is voluntary on the part of the employee and all the following criteria are met:

1. Attendance is outside regular working hours;
2. Attendance is voluntary: attendance is not voluntary if the employee is led to believe that present working conditions or the continuation of employment would be adversely affected by nonattendance;
3. The course, lecture, or meeting is not directly related to the employee's job: training is directly related to an employee's job if it is designed to make the employee handle his job more effectively as distinguished from training him for another job or to a new or additional skill; and
4. The employee does not perform any productive work during such attendance.

46.6.6 **Intern Programs.** Historically, DLSE has required that in order to be exempt from the wage and hour requirements of the IWC Orders, the intern's training must be an essential part of an established course of an accredited school or of an institution approved by a public agency to provide training for licensure or to qualify for a skilled vocation or profession. The program may not be for the benefit of any one employer, a regular employee may not be displaced by the trainee, and the training must be supervised by the school or a disinterested agency. (O.L. 1996.12.30)

46.6.7 **All Training Programs, Lectures, Meetings, Etcetera Which Do Not Meet The Above Criteria Are Hours Worked.** If any one of the above listed criterion is not met, the time is to be considered "hours worked".