



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

September 23, 2008

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re: Request for Opinion:
Junior Firefighters
RO-08-0013

Dear [REDACTED]

I have been asked to respond to your letter of January 24, 2008. Please accept my apology for the late response to your request. Your letter states that you are the Department Attorney for the [REDACTED] Fire Department ([REDACTED]). Your Department currently utilizes volunteer Junior Firefighters, who are 16 and 17 years old, in a capacity similar to that of ordinary firefighters, but with limitations as to their participation in certain activities. Your letter asks a series of questions with regard to these volunteer Junior Firefighters. Initially, please be advised that it is not appropriate for this Department to provide interpretations of Federal law. I suggest that you direct any questions regarding Federal law to the United States Department of Labor.

With regard to the state law questions posed in your letter, please accept the following in response to your request:

1. *Does the New York State Office of Fire Prevention and Control (OFPC) and the [REDACTED] FD have a broad-based exemption from the Secretary of Labor's employment rules?*

The child labor protection provisions in the New York State Labor Law (Article 4) do not apply to minor volunteer firefighters; as such minors do not meet the definition of employees. The provisions of the New York Public Employee Safety and Health Act do not reference age, but they do require that firefighters, paid or volunteer, regardless of age, be appropriately trained and equipped as required by applicable standards. (See, Labor Law §27-a). Other restrictions may apply to persons under the age of sixteen, not the least of which is New York State Arts and Cultural Affairs Law Section 35.07(1)(e) which prohibits such minors from "any practice, exhibition or place dangerous or injurious to life, limb, health or morals of the child."

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2. *Do labor laws and regulations concerning working certificates and permits apply to Junior Firefighters?*

New York State child labor restrictions are not applicable to minors aged sixteen to eighteen who are volunteer firefighters because they are not "employees" as required for coverage by those provisions. (See, 1985 Op. Atty. Gen 136).

3. *Do labor laws and regulations require [REDACTED] FD to obtain certification of any type greater than the consent forms of OFPC?*

No certification or consent forms are required by the New York Labor Law with regard to minor volunteer firefighters.

4. *Are state and federal hazardous job restrictions applicable to the training exercises performed by Junior Firefighters described above?*

There are no state hazardous job restrictions applicable to the training exercises performed by Junior Firefighters described in your letter. As noted previously, all PESH standards applicable to such activities would apply to Junior Firefighters in the same fashion that they would apply to adult firefighters.

5. *Are state and federal hazardous job restrictions applicable to the emergency scene activities of Junior Firefighters described above?*

There is no state hazardous job restrictions applicable to the emergency scene activities performed by Junior Firefighters described in your letter. As noted previously, all PESH standards applicable to such activities would apply to Junior Firefighters in the same fashion that they would apply to adult firefighters.

6. *Is [REDACTED] FD required to impose hours restrictions on Junior Firefighters, and if so, to what extent?*

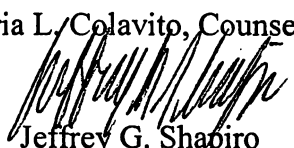
New York State child labor restrictions are not applicable to minors aged sixteen to eighteen who are volunteer firefighters because they are not "employees" as required for coverage by those provisions. Please take note that there is no provision in the New York State Education Law which would excuse minor firefighters from compulsory school attendance for any firefighting purpose, including answering alarms.

This opinion is based on the information provided in your letter of January 24, 2008. A

different opinion might result 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

JGS:jc

cc: Carmine Ruberto