



**New York State Department of Labor**

Eliot Spitzer, *Governor*

M. Patricia Smith, *Commissioner*

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October 1, 2007



Re: Request for Opinion  
Uniforms  
File No. RO-07-0100

Dear [REDACTED]:

I have been asked to respond to your letter of September 17, 2007, in which you seek confirmation of a verbal opinion given to you by this Department's Division of Labor Standards' Albany office. You state that an employer requires its employees to wear short sleeved golf type shirts in the course of their employment. The employer supplies these shirts at no cost to the employees and replaces them when they become worn, again at no cost to the employees. You state that these shirts "are in a particular color scheme selected by the employer, but contain no company logo identifying the employer." When working, an employee affixes a removable magnetic nametag to the shirt. You represent that, without such nametag, such a shirt is suitable as part of an employee's ordinary wardrobe and the employees are permitted to so wear such shirts.

This letter will confirm the Division of Labor Standards' verbal opinion that such shirts, as described, would not be considered "required uniforms" as that term is defined by Regulation 12 NYCRR §137-3.13. Such regulation 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,*" (emphasis added). As the shirts in question appear, by your description and representations, to be of a type that may be worn as part of an ordinary wardrobe, they would not be considered "required uniforms" as defined. Therefore, the allowance for required uniforms set forth in Regulation 12 NYCRR §137-1.8 is not applicable to these shirts.

This opinion is based upon the information provided in your letter of September 17, 2007. A different opinion might result if any facts provided have been inaccurately stated, or if there are other relevant facts which have not been disclosed. If you have any further questions, please feel free to contact me.

Very truly yours,

Jeffrey G. Shapiro  
Senior Attorney

JGS:jc  
cc: Carmine Ruberto