

Minimum Wage Opinion Letter 02-06-03 - Recordkeeping

February 6, 2003

Your letter to Jane Edmonds, Director of the Massachusetts Department of Labor and Workforce Development (DLWD), has been forwarded to me for a response. The Division of Occupational Safety (DOS), an agency under DLWD, is responsible for responding to inquiries concerning the applicability of the Massachusetts Minimum Fair Wage Law, M.G.L. 151, and regulations promulgated thereunder. You have asked if Massachusetts wage and hour law recognizes 29 C.F.R. §516.2(c), the federal "fixed schedule exception" to employer recordkeeping requirements.

Under 29 C.F.R. §516.2(c), for employees working on fixed schedules, employers are permitted to maintain records of the schedule of daily and weekly hours normally worked instead of records showing hours worked each day and each workweek. In weeks where the employee adheres to the normal schedule, the record would indicate, by check mark or other method, that these hours were actually worked. In weeks where the employee deviates from the schedule, the record would show the exact number of hours worked each day and each week.

The Massachusetts Minimum Fair Wage Law provides, in pertinent part, that "[e]very employer shall keep a true and accurate record of the name, address and occupation of each employee, of the amount paid each pay period to each employee, of the hours worked each day and each week by each employee, and such other information as the [director] or the attorney general in their discretion shall deem material and necessary." M.G.L. c. 151, §15. [\[1\]](#) While Massachusetts law does not explicitly reference the alternative method of recordkeeping described in 29 C.F.R. §516.2(c), it would appear that this method would nonetheless provide an accurate record of hours worked each day and each week as required by Massachusetts law. Therefore, this method of recordkeeping for employees working on fixed schedules is permissible under state law, provided employers accurately document any deviations from an employee's fixed schedule. This is most important in the situation where a non-exempt employee works in excess of 40 hours in a given workweek.

I hope this information has been helpful. If you have any further questions, please feel free to contact me.

Sincerely,
Lisa C. Price
Legal Counsel

[\[1\]](#) Employee records must also be kept and furnished in accordance with M.G.L. c. 151, §§3, 19(3)

= Names have been omitted