

Opinion file



New York State Department of Labor
Eliot Spitzer, Governor
M. Patricia Smith, Commissioner

July 12, 2007

[Redacted]

Re: Request for Opinion
Labor Law §191 - Wage Payment
File No.: RO-07-0073

Dear [Redacted]

I have been asked to respond to your letter of July 3, 2007 in which you state that you represent employees of the [Redacted] School District. You allege that although it is possible that these workers are being paid in compliance with their collective bargaining agreements (CBAs), it is not possible to determine whether they are being paid within the time frame required by Labor Law §191. You also allege that one of your members recently retired and that it was impossible to determine, from his final pay stub, whether all wages due had been paid to him. In this context, you ask a number of questions, all of which may be answered as follows.

The [Redacted] School District is not an "employer" subject to Labor Law §191. As you note in your letter, Labor Law §190(3) states that the term "employer" as used in Article 6 of the Labor Law (of which Labor Law §191 is a part) does not include "a government agency." As school districts are government agencies, the [Redacted] School District is not an "employer" subject to Labor Law §191. Therefore, this statute is not applicable to the workers in question.

There is no provision of the New York State Labor Law requiring government workers to be paid within certain time periods. Such provisions might be found in the New York State Civil Service Law or the U.S. Labor Law or, as these are school district employees, the New York State Education Law. As this Department does not enforce these laws, however, it cannot definitively advise you as to whether they, or any regulations associated with them, contain any such provisions. I suggest that you contact the New York State Department of Civil Service, the State Education Department and the U.S. Department of Labor for an answer to this question.

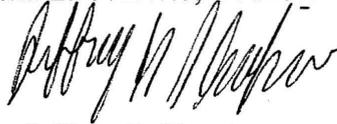
Lastly, it appears from your description that the resolution of this matter may require interpretation of the CBAs. Federal law bars any state agency or court from making any such interpretation. I suggest that you contact your union's legal representative for advice on the proper course of action to take to interpret and, if necessary, enforce the terms of the CBAs.

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This opinion is based on the information provided in your letter of July 3, 2007. 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

A handwritten signature in black ink, appearing to read "Jeffrey G. Shapiro", written over the printed name below.

By: Jeffrey G. Shapiro
Senior Attorney

JGS:

cc: Carmine Ruberto