

## **Ticket Takers For West Virginia High School Football**

### **Guidance On Payment Versus Volunteers**

July 15, 2011

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Before long, school will be back in session, and Friday nights will be spent attending high school football games. As we enter the gates at the games, a question that often comes to mind is how the gate keepers/ticket takers are paid? Can the high school athletic director just give the gate keeper/ticket taker \$20.00 from the gate receipts? Can the principal issue a check from the school's general account? Fortunately, many high schools are able to find volunteers and do not have to answer these questions. But even if a volunteer is found, such as a service personnel employee, can the high school allow such employees to volunteer for free?

West Virginia Board of Education Policy 1224.1 provides guidance on the first issue; should a high school be unable to find volunteers. In particular, Policy 1224.1 provides that "ticket takers . . . regardless of whether the individual is a full-time employee of the board or not . . . are to be paid through the normal payroll process of the central board office . . .". Policy 1224.1 goes on to state that "this includes payment for part-time or temporary help for . . . concession stand workers, ticket takers, or other workers at athletic events, carnivals, or other activities, regardless of whether the individual is a full-time employee of the board or not." And, "County boards are to establish by local policy the procedures to be used by the individual schools in the county for the reporting and payment of wages to all individuals who perform services for the schools."

In fact, sometimes when a county board of education is unable to locate volunteers to serve as gate keepers/ticket takers, it will post an extracurricular position in order to obtain an employee to provide the service (see example.)

As to the second question, whether service personnel are able to volunteer, the Guide to the Fair Labor Standards Act for West Virginia School Districts, issued by the West Virginia Department of Education Office of School Finance, provides guidance. For example, the Guide provides several questions and answers as it relates to when payment (and overtime) are required to be paid to non-exempt employees (i.e., service personnel).

In particular, **non-exempt employees who stay after scheduled hours to perform school related work such as take tickets at an athletic event, attend parent-teacher conferences, work at open house, go to staff meetings, set up or close**

**functions, etc.** Employees would have to be compensated for such activities, unless they are bona fide volunteers. However, if the activities are infrequent, irregular, or occurring in scattered instances, the hours spent doing them do not have to be added to the employee's regular work hours for overtime purposes. An activity is "occasional and sporadic" if it is:

1. not a regular assignment
2. solely at the employee's option (no coercion, implied or explicit)
3. in a different capacity than the employee's regular work. (An example of this could be taking up tickets at home football games.)

As the high school football season quickly approaches, it might be helpful to remind your building administrators and athletic directors of Policy 1224.1 should they be unable to locate volunteers.

Should you have any questions on this issue or any issues, please feel free to contact a member of [Dinsmore & Shohl's Education Law Practice Group](#).