ADMINISTRATIVE POLICY

STATE OF WASHINGTON
DEPARTMENT OF LABOR AND INDUSTRIES
EMPLOYMENT STANDARDS

TITLE: **FREQUENTLY ASKED-QUESTIONS ABOUT EMPLOYEE WEARING APPAREL**

NUMBER: **ES.C.8.2**

CHAPTER: **RCW 49.12.450**

SEE ALSO: **ES.C.8.1**

ISSUED: **1/2/2002**

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This policy is designed to provide general information in regard to the current opinions of the Department of Labor & Industries on the subject matter covered. This policy is intended as a guide in the interpretation and application of the relevant statutes, regulations, and policies, and may not be applicable to all situations. This policy does not replace applicable RCW or WAC standards. If additional clarification is required, the Program Manager for Employment Standards should be consulted.

This document is effective as of the date of print and supersedes all previous interpretations and guidelines. Changes may occur after the date of print due to subsequent legislation, administrative rule, or judicial proceedings. The user is encouraged to notify the Program Manager to provide or receive updated information. This document will remain in effect until rescinded, modified, or withdrawn by the Director or his or her designee.

If an employee makes only minimum wage, can the employer require the employee to purchase wearing apparel for the job consisting of white shirt and black trousers? Yes, the employer may require minimum wage earners to purchase their own wearing apparel that conforms to standards of common color and general dress code or style. Such wearing apparel is not considered a uniform.

If an employee makes more than minimum wage, may the employer withhold the difference between minimum wage and agreed wage to cover the cost of the uniform? No. Regardless of the employee's rate of pay, the employer must bear the full cost of uniform.

What are the requirements of RCW 49.12.450 regarding bargaining agreements which stipulate employees purchase uniforms? Whereas section 49.12.187 RCW implies an ability to collectively bargain standards and conditions of employment addressed elsewhere in the act, the wearing apparel legislation limits deviation only to those bargaining agreements in place as of June 11, 1998, until their expiration. Subsequent bargaining agreements then would not enable terms less favorable to the workers than provided in statute and subsequent regulations.

When an employer no longer requires uniforms and relaxes the dress code to conform to common color and general dress code provisions, would the employer be required to purchase the new clothing? No. The employer is not required to purchase clothing of the common colors that conform to the general dress code.

May the employer require any style or color of footwear without incurring the expense? The law is silent on the issue of footwear. It is the department's position that if the footwear

conforms to the statutory definition of "uniform," then the employer must purchase it. For example, an employer who requires cowboy boots because of its western motif or formal shoes to go with a tuxedo is then obligated to purchase or compensate the employee for the cost of the footwear. If the employer requires certain brands of footwear for the purposes of identifying the employee with and promoting its product line, the employer must pay the expense. This position is derived from the provision in statute identifying a uniform as apparel marked with the employer's logo. The employer is not required to purchase footwear of a specific color and style that does not meet the definition of a uniform as specified in RCW 49.12.450.

If the employer requires foul weather gear of a certain style and quality must the employer provide it? No, unless it identifies the employee with the particular employer by virtue of the garment. Personal protective equipment is not generally considered uniform wearing apparel. (Certain WISHA regulations require employers to provide personal protective equipment in certain industries. Such equipment is not considered wearing apparel as defined in RCW 49.12.450 and may the employer's responsibility.)

What is considered "formal apparel"? Formal apparel includes the following: Evening clothes, including party dresses, full length skirts, gowns and garments made of fine fabrics such as brocades, chiffon, satins, tuxedos, tuxedo shirts, cummerbunds, bow ties, ascots, and vests typically worn with tuxedos. Business suits when typically worn by a majority of workers in the pertinent industry are not considered "formal attire" for the purposes of this chapter.

Certain professionals and trades people wear apparel that tends to identify them with their profession or industry. Who is responsible for the expense of this apparel? Unless the required garments are so specifically tailored as to identify these workers with the immediate employer, the apparel would be regarded as meeting a general dress code within these lines of work and would not constitute an obligation to the employer for purchase.

Are there special provisions or exceptions for part time or temporary workers? No. The requirements are the same for all employees.

Who is responsible for purchase of uniforms when more than one outfit is required? If the employer requires more than one outfit meeting the definition of uniform, then the employer must incur the expense for all. When garments that by their design, use, or fabric, require frequent and special care and consequently indicate the need for more than one outfit, then the employer shall be responsible for the acquisition of at least two of these outfits. Workers that request more than one uniform of the wash and wear variety for their own convenience will bear the expense of additional uniforms.

What are the penalties for violation of this law? Each offense is a misdemeanor that may be prosecuted. Employers may also be required to reimburse employees for uniform purchases, if found unlawful.

See ES.C.8.1 for policy on employee wearing apparel.