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• **Standard Number:** 1904.5

October 20, 2014

James Goodwyne  
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150-C North Dairy Ashford, C480  
Houston, TX 77079

Dear Mr. Goodwyne:

Thank you for your letter to the Occupational Safety and Health Administration (OSHA) regarding the recordkeeping regulation contained in 29 CFR Part 1904 - Recording and Reporting Occupational Injuries and Illnesses. Specifically, your letter requests clarification of OSHA's injury and illness reporting requirements at Section 1904.5, Determination of Work-relatedness.

**Scenario 1:**

An employee traveled out of town to attend a one-day meeting at the direction of his supervisor. The employee arrived in the town the evening before and stayed at a nearby company apartment. The employee planned to travel back home directly from the meeting. On the way to the meeting, the employee was injured in a car accident. The employee went to the emergency room and received medical treatment.

- Does this travel fall under the Section 1904.5(b)(6)(i) exception for a "home away from home," and therefore the injuries do not have to be reported?
- Does a return trip to the "home away from home" have to be planned in order for the commuting exception to apply to the travel to the meeting? Would this determination be any different if the employee drove only half of the distance to the town where the meeting was to be held due to fatigue, checked into a hotel for the night, and woke up early the next morning to drive the final 75 miles of the journey to arrive at the meeting on time?

**Response 1:**

First, the travel conducted between the apartment and the meeting worksite is considered the employee's normal commute. An accident occurring during the normal commute is not considered work-related. Section 1904.5(b)(6)(i) states that when a traveling employee checks into a temporary residence, he or she is considered to have established a "home away from home." The company apartment described in your scenario meets OSHA's definition of a "home away from home" so long as the employee is not required to stay there as a condition of employment. When an employee has established a "home away from home" and is reporting to a fixed worksite, injuries or illnesses are not considered work-related if they occur while the employee is commuting between the temporary residence and the job location. These cases are parallel to those involving employees commuting to and from work when they are at their home location, and as such, do not have to be recorded. See, the January 19, 2001 preamble to OSHA's final rule revising the recordkeeping regulation, 66 Federal Register 5960.

The fact that the employee did not return to the apartment after the meeting does not affect the status of the trip from the apartment to the meeting. A normal commute is generally comprised of two legs, a trip from residence to work and a return trip from work to residence. Under the scenario described above, only the trip from the temporary residence to the meeting is considered the normal commute.

The second half of the scenario above is not considered a normal commute. Because the employee was still in the process of traveling to his ultimate destination, the continuation of the trip from the temporary residence to the meeting location is considered to be travel status. An accident occurring while in travel status is work-related.

**Scenario 2:**

Employees travel to their normal workplace, a remote production site in a mountainous region, in a company-provided bus from a nearby community. The company provides the transport free of charge to its employees. Use of the bus service is encouraged, but optional.

- Is this travel considered part of the employees' normal commute from home, even though the transportation is provided by the company?
- Would the bus ride be categorized differently if the employees were required to take the bus?
- If use of the bus service is required, does the bus become part of the work environment and the geographic presumption apply to any injuries that occur during the travel?

**Response 2:**

The mode of transportation is not determinative of OSHA's definition of a "normal commute." Under your scenario, the daily trips between the residence and work site are considered the employee's normal commute, regardless of whether they are made by personal vehicle or company-provided vehicle. An accident occurring during the normal commute is not considered work-related.

The situation is different if the employer requires the employee to use the company-provided bus. A requirement to use the bus is a "condition of employment" (Section 1904.5(b)(1)), which makes the travel work-related. This interpretation is similar to the guidance provided for employer-furnished living accommodations in the letter of interpretation at [http://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=INTERPRETATIONS&p\\_id=25637](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=INTERPRETATIONS&p_id=25637). In this letter, OSHA explained that the furnishing of housing accommodations by an employer to employees is considered a "condition of their employment" when (1) employees are required by the employer to use them or (2) are compelled by the practical realities of the employment situation to use them. The same holds true for employer-provided travel arrangements. So, an accident during a commute is work-related where the mode of travel is a condition of employment.

We hope you find this information helpful. OSHA requirements are set by statute, standards, and regulations. Our interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. This letter constitutes OSHA's interpretation of the requirements discussed. Note that our enforcement guidance may be affected by changes to OSHA rules. Also, from time to time we update our guidance in responses to new information. To keep apprised of such developments, you can consult OSHA's website at <http://www.osha.gov>.

Sincerely,

Francis Yebesi, Acting Director  
Directorate of Evaluation and Analysis

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