

875—220.106(91D) Payment of expenses, benefits, or fees.

220.106(1) Volunteers may be paid expenses, reasonable benefits, a nominal fee, or any combination thereof, for their service without losing their status as volunteers.

220.106(2) An individual who performs hours of service as a volunteer for a public agency may receive payment for expenses without being deemed an employee for purposes of these rules. Individuals would not lose their volunteer status because they are reimbursed for the approximate out-of-pocket expenses incurred incidental to providing volunteer services, for example, payment for the cost of meals and transportation expenses.

220.106(3) Individuals do not lose their status as volunteers because they are reimbursed for tuition, transportation and meal costs involved in their attending classes intended to teach them to perform efficiently the services they provide or will provide as volunteers. Likewise, the volunteer status of individuals is not lost if they are provided books, supplies, or other materials essential to their volunteer training or reimbursement for the cost thereof.

220.106(4) Individuals do not lose their volunteer status if they are provided reasonable benefits by a public agency for whom they perform volunteer services. Benefits would be considered reasonable, for example, when they involve inclusion of individual volunteers in group insurance plans (such as liability, health, life, disability, workers' compensation) or pension plans or "length of service" awards, commonly or traditionally provided to volunteers of government agencies, which meet the additional test in 220.106(6).

220.106(5) Individuals do not lose their volunteer status if they receive a nominal fee from a public agency. A nominal fee is not a substitute for compensation and shall not be tied to productivity. However, this does not preclude the payment of a nominal amount on a "per call" or similar basis to volunteer firefighters. The following factors will be among those examined in determining whether a given amount is nominal:

- a.* The distance traveled and the time and effort expended by the volunteer;
- b.* Whether the volunteer has agreed to be available around the clock or only during certain specified time periods; and
- c.* Whether the volunteer provides services as needed or throughout the year. An individual who volunteers to provide periodic services on a year-round basis may receive a nominal monthly or annual stipend or fee without losing volunteer status.

220.106(6) Whether the furnishing of expenses, benefits, or fees would result in individuals' losing their status as volunteers can only be determined by examining the total amount of payments made (expenses, benefits, fees) in the context of the economic realities of the particular situation.

SOURCE: 29 CFR 553.106.