

JANUARY 29, 1958

HONORABLE CARL HOLDERMAN
Commissioner of Labor and Industry
20 West Front Street
Trenton, New Jersey

MEMORANDUM OPINION—P-5

DEAR COMMISSIONER HOLDERMAN :

You have asked whether the Department of Labor and Industry may require every employer to file with the Department a report covering each accidental injury and occupational disease suffered by an employee.

We understand that this report would be filed for any injury which causes a loss of time from regular duties beyond the working day or shift during which the accident occurred, or which required medical treatment beyond ordinary first aid or more than two treatments by a physician, and also for any occupational disease whether or not time was lost. The items of information which you desire are contained in items 1 through 31 of Form WC-1 of the Department of Labor and Industry.

In our opinion, it is within the power of the Department of Labor and Industry to require the filing of such reports.

R.S. 34:1-49 provides :

"The Bureau of Statistics and Records shall collect, classify and report to the Legislature, on or before the last day of October in each year, statistical details relating to labor in the State with particular regard to the commercial, industrial, social, educational and sanitary condition of the laboring classes, and in all suitable and lawful ways foster and encourage all productive industries, with the view to their permanent establishment upon a prosperous basis, both to employer and employed."

The obligation of the employer to submit reports is stated in R.S. 34:1-52 which provides :

"It shall be the duty of every owner, operator, lessee, manager or superintendent of every factory, mill, workshop, mine or other establishment or industry in which labor is employed within this State, to make such reports or returns on blanks furnished by the bureau as the bureau may require for compiling statistics authorized by law within the time prescribed therefor, and to certify to the correctness of the same."

The penalty for failure to submit such reports is contained in R.S. 34:1-53 which states :

"Any owner, operator, lessee, manager or superintendent of an establishment or industry in which labor is employed within this State, who wilfully neglects or refuses to make return or report as and when required pursuant to section 34:1-52 of this title shall be subject to a penalty of fifty dollars for each such failure or delay, to be recovered in an action at law brought by and in the name of the commissioner."

The Bureau (now the Bureau of Research and Statistics in the Division of Labor) is thus empowered to collect statistical details relating to labor in this State, and for refusal by an employer to submit reports for this purpose, a penalty may be imposed. Assuming that the details which you desire concerning accidental injuries and occupational disease serve the statistical purposes of the Bureau, the requirement of such reports is proper.

Very truly yours,

HAROLD KOLOVSKY
Acting Attorney General

By: THOMAS L. FRANKLIN
Deputy Attorney General

JANUARY 29, 1958

ALAN S. MEYER, *Research Director*
Youth Study Commission
335 Clifton Avenue
Clifton, New Jersey

MEMORANDUM OPINION—P-6

DEAR MR. MEYER:

You have inquired whether the staff employed by the Youth Study Commission, which includes a research director employed full time, an educational director employed part time, and an office secretary employed part time, is entitled to coverage under the Federal Social Security Act.

The Youth Study Commission was originally created by J.R. 4 of 1954, as the Juvenile Delinquency Commission. Its name was changed to the Youth Study Commission by J.R. 19 of 1956.

The Federal and State statutes governing social security coverage afford such coverage on a broad basis. See 42 U.S.C.A., Section 418; N.J.S.A. 43:15A-1, 43:22-1. For the purposes of social security, the term "employee" includes any person holding "office, position or employment in the service of the State or of any county, municipality or school district, or of any public department, board, body, commission, institution, agency, instrumentality or authority of, or in, the State, or of, or in any county, municipality or school district in the State." N.J.S.A. 43:22-2(c).

N.J.S.A. 43:15A-1 extends the permissible area of coverage to governmental units having no retirement system, stating that:

"The State Agency, . . . with the approval of the Governor, is hereby authorized and directed to enter, on behalf of the State, . . . and of any public department, board, body, commission, . . . of, or in, the State . . . into an agreement . . . for the purpose of extending the services of the Federal Old-Age and Survivors Insurance system to all services performed by employees as members of any coverage group as defined in section 218(b)(5) of the Social Security Act, unless such services are already covered by an agreement under this act."