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# Wage Board Holds Hearings Around the State

The New York State Department of Labor Commissioner M. Patricia Smith appointed a Wage Board in March to consider changes to the Wage Order for the Restaurant Industry.

The Wage Board is a six member panel made up of two members from the general public: the Chairperson, Linda Donohue, Senior Policy Analyst, Cornell University and James Versocki, Esq., from Archer, Byington, Glennon & Levine LLP in Melville; two labor representatives: Neil Kwatra, Director of the NY Hotel & Motel Trades Council, AFL-CIO and Peter Ward, International Vice President & Business Manager of UNITE HERE Local 6; and two employer representatives: Rick Sampson, NYSRA President and CEO and Dan Murphy, President of the NYS Hospitality & Tourism Association.

The Commissioner asked the Wage Board to considering clarifying or modifying rules and regulations such as the tip allowance, service charges, overtime calculations, tip pooling, tip sharing, meal allowance, uniform maintenance, definition of a uniform, and spread of hours.

Groups such as the Restaurant Opportunities Center (ROC-NY), Make the Road, UNITE HERE and Local 6 asked the Wage Board to eliminate the tip credit so that all employees would be paid \$7.25 an hour as of July 2009. They asked for overtime to apply after eight hours of work per day instead of on a weekly basis. They suggested that all service charges be turned over to the service employees and none of it be allowed to be retained by the house. They also detailed numerous abuses and violations of the labor law.

The New York State Restaurant Association (NYSRA) had a number of members, consultants and staffers testify at the hearings. NYSRA and its members argued that the cash wage should be kept at \$4.60 an hour or rolled back to match the federal requirement of \$2.13 an hour. We asked the Board to allow mandatory tip pooling, increase the meal allowance to equal fair value, eliminate the spread of hours, allow a wash and wear exemption for uniforms and clarify the definitions of uniforms, service charge, and "regular rate of pay" for overtime calculations.

**While the hearings have ended, you can still make your views known by submitting written testimony on any or all of these issues. Written testimony will be accepted through June 3, 2009** and can be submitted to NYS Department of Labor, Attn: Jean Lindholm, Building 12, Room 185B, Harriman State Office Campus, Albany, New York 12240, phone (518) 485-7531, fax (518) 457-8452, or [jean.lindholm@labor.state.ny.us](mailto:jean.lindholm@labor.state.ny.us). If you would like help writing testimony please contact Melissa Fleischut in NYSRA's Albany office at [melissaf@nysra.org](mailto:melissaf@nysra.org) or 800-452-5212.

The Wage Board will continue to deliberate through June and July and issue a report to the Commissioner sometime in August.