

Court not sold that SEPTA is 'arm of the state'

- By [HR Specialist: New Jersey Employment Law](#)
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The Southeastern Pennsylvania Transportation Authority (SEPTA) is a metropolitan transportation authority created by the Commonwealth of Pennsylvania. It operates the mass-transit system in Philadelphia and the surrounding counties in Pennsylvania and New Jersey.

A bus driver recently sued SEPTA, claiming she and all others like her had been paid less than they were entitled to. SEPTA tried to get out of the lawsuit by saying it was an arm of the state, and therefore immune from Fair Labor Standards Act (FLSA) claims.

Recent case: Allison Cooper worked as a bus driver for SEPTA. On regular shifts, she was paid for time starting 10 minutes before her bus was scheduled to pull out of the depot in the morning. When she worked a swing shift—two shifts per day, with a break in between—she was paid for the second shift beginning at the scheduled pullout in the afternoon.

Cooper claimed that she and the other swing-shift drivers had to do pre-drive inspections in the afternoon (taking from 10 to 30 minutes), for which they were not paid. She sued under the FLSA, claiming she and all others similarly situated hadn't been paid for every minute they worked.

The 3rd Circuit Court of Appeals did an exhaustive analysis of SEPTA's funding and concluded that while it received significant state funding, it was not controlled by the state. Therefore, it was not an arm of the state and not entitled to sovereign immunity. The lawsuit will go forward. (*Cooper, et al., v. SEPTA*, No. 07-1522, 3rd Cir., 2008)

Final note: Could your organization be an arm of the state? If so, it's worth carefully reviewing this case with your attorney.