U.S. Department
of Transportation
**Federal Aviation
Administration**

Office of the Chief Counsel

800 Independence Ave., S.W.
Washington, D.C. 20591

AUG 12 2008

Mr. Brent Harper
Inflight Standards – Manager, Regulatory Compliance
Southwest Airlines
P.O. Box 36611- HDQ 9TR
Dallas, Texas 75235-1611

Dear Mr. Harper:

This responds to your letter dated July 1, 2008 requesting an FAA legal interpretation concerning the use of off-duty, qualified Flight Attendants, traveling on a Southwest flight, to volunteer as a substitute for a working Crewmember during boarding and deplaning phases. Specifically, you ask:

"The question arose regarding whether this short, voluntary period would be considered duty time."

The FAA has determined that a person used by an air carrier for the purpose of continuing a flight is on duty. In this case, the volunteer flight attendant is being asked to substitute for a working crewmember during boarding and deplaning phases, which are included in a duty period.

Whether or not such work by the volunteer flight attendant was "scheduled" is not dispositive, nor whether such work needs to be associated with flight time. The courts have rejected attempts to narrowly define the term "scheduled". See Air Transport Ass'n of America, Inc. v. F.A.A., 292 F.3d 49 (C.A.D.C. 2002). The FAA has also included pre- and post-flight duties in its definition of a duty period. See Legal Interpretation 2005-6, Letter to Scott Morris dated April 29, 2005.

This response was prepared by Bruce Glendening, Attorney in the Regulations Division of the Office of the Chief Counsel and has been coordinated with the Air Transportation Division of Flight Standards Service. If you have additional questions regarding this matter, please contact us at your convenience at (202) 267-3073.

Sincerely,

Rebecca MacPherson
Assistant Chief Counsel, Regulations Division (AGC-200)