U. S. DEPARTMENT OF LABOR
WAGE AND HOUR AND PUBLIC CONTRACTS DIVISIONS

WASHINGTON, D.C. 20210

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Your letter of March 16, addressed to Mr. John Schrankel of the Office of the Solicitor, has been referred to this office for reply.

The Interior Design Department of the University of North Carolina has established a new educational program under which a rising senior student will give (absolutely free) 90-100 interior design working hours, in return for the opportunity to get supervised practical experience in interior design.

It is a requirement of the program of study that each rising senior student have approximately 90-100 practical design working hours with an interior design firm or a firm which employs interior designers, who would see that the student has the opportunity to do her 100 hours of supervised interior design work.

The school has requested your client to participate in this program, and your client has expressed an interest in participating in the program, provided that it does not incur any obligations to the student under the Fair Labor Standards Act.

Apparently, the principal concern of your client is whether the Department of Labor will regard the relationship existing between it and the student, as a result of its participation in the program, as that of an employer-employee under the Fair Labor Standards Act.

The Department, following Walling v. Portland Terminal Co., 330 U.S. 148, has ruled that trainees are not employees within the meaning of the Act if all six of the following criteria apply:

(1) the training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in a vocational school;

(2) the training is for the benefit of the trainees or students;

(3) the trainees or students do not displace regular employees, but work under their close observation;

(4) the employer that provides the training derives no immediate advantages from the activities of the trainees or students, and on occasions his operations may actually be impeded;

(5) the trainees or students are not necessarily entitled to a job at the conclusion of the training period; and

(6) the employer and the trainees or students understand that the trainees or students are not entitled to wages for the time spent in training.

The Supreme Court has held that where all these conditions are met, there is no employer-employee relationship subject to the wage requirements of the Act with respect to the trainees or students.

We cannot say definitely whether the proposed program meets all six requirements. However, pending interpretations by the courts, this Department will not assert that a student studying to become an interior designer is an employee of a firm when engaged in on-the-job training or work experience which is a prescribed part of the curriculum of instruction established for such a program of study.

We trust the foregoing is responsive to your request.

Sincerely,

ROBERT [illegible]

Robert D. Moran
Administrator

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