

U.S. DEPARTMENT OF LABOR  
Employment Standards Administration  
Washington, D. C. 20210



June 29, 1971

ADEA 304  
304.11

This is in further reference to your letter of April 28, 1971, concerning the application of the Age Discrimination in Employment Act to bona fide employee benefit plans. We regret the delay in responding to your inquiry.

In this connection, the term "bona fide", given its generally understood meaning, describes a plan established in good faith to provide certain fringe benefits for employees, and not as a device or subterfuge to avoid the purposes of the Act.

Section 4(f)(2) has not, up to this date, been litigated in the courts.

The basic data needed to begin the study required by section 5 of the statute is not available in an appropriate form and it was found from preliminary surveys that only an extensive and expensive research project would yield any meaningful results. Other agencies in the U. S. Government are now working on some studies in related areas and we are hopeful that they will yield significant information that can be used as a basis for the required study. Arrangements have been made for the Department of Labor to have access to the basic data generated by these surveys. It will, however, clearly be some time before any conclusions can be reached.

Sincerely,

/s/ Francis J. Costello

Assistant Administrator  
Wage and Hour Division

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