

FLSA-83

November 18, 1974

We regret the delay in replying to your letters of May 2 and June 18, 1974, concerning the application of the 1974 amendments to the Fair Labor Standards Act to nonprofit associations, such as the *** Society.

As you were advised by telephone on June 24, 1974, the Act applied equally to both full-time and part-time employees who are individually engaged in or producing goods for interstate commerce and to employees in certain enterprises. Its major provisions are summarized in the enclosed Handy References Guide, while WH Publication No. 1358 gives general information on coverage of the Act.

There is no specific exemption in the law for employees of public or private, profit or nonprofit, organizations, including health organizations, as such. Therefore, some employees of the *** Society may be subject to the Act on the basis of their individual activities in interstate commerce or in the production of goods for interstate commerce. Employees of the *** Society who regularly order or receive goods from outside the State, handle or produce goods for shipment to other States, keep records relating to such interstate transactions, and use the telephone, telegraph, and mails for interstate commerce are individually covered. Such employees, including high school and college students employed during the summer, are subject to a minimum wage at \$2.00 per hour, effective May 1, 1974; \$2.10 an hour, beginning January 1, 1975; and \$2.30 an hour, beginning January 1, 1976 and overtime premium pay for all hours worked in excess of 40 in a workweek at one and one-half times their regular rates of pay, unless specifically exempt. If, as you state in your letter, employees of your local County Unit Branch Offices are restricted to communication activities within their own county or within the State *** they would not be covered under the law.

While certain activities of nonprofit organizations may be covered under the law on an enterprise basis, eleemosynary, religious or educational activities of a private nonprofit organization, such as *** Society, would be outside the Act's enterprise provisions provided they are not operated in connection with any of the establishments listed in section 3(s) of the Act. This is discussed on pages 4 through 8 of the Guide.

You may also be interested in knowing that persons who volunteer their services to religious, charitable and similar nonprofit organizations, not as employees and without contemplation of pay, are not considered employees within the meaning of the Fair Labor Standards Act. Therefore, volunteer workers of the *** Society who donate their time need not be compensated for such services.

With regard to your question concerning "trainees or so-called learners employed in conjunction with a school program", Section 14 of the Act permits the employment of student learners under special certificates at wages lower than the statutory minimum

provided certain conditions are met. This is discussed in the enclosed copy of Regulations Part 520.

For further information concerning the issuance of these certificates or any other questions concerning the law, we suggest you get in touch with the Area Office of the Wage and Hour Division. Officials there are in a better position to ascertain the necessary facts and they will be pleased to be of all possible assistance to you.

Sincerely,

William Hoffman, Director
Division of Minimum Wage
and Hour Standards
Wage and Hour Division

Enclosures