

FLSA-596

December 3, 1975

This is in reply to your letter of September 25, 1975, regarding the status of employee "volunteers" under the Fair Labor Standards Act.

You state that the company is a non-profit organization whose principal activity is non-profit educational television (a Public Broadcasting Station,***). You state that secretaries, administrative assistants, and a janitor wish to volunteer for work on special events, performing duties outside their regular assignments. For example, an administrative assistant would like to volunteer for work as a member of the production crew, a secretary would like to do some announcing and air work, the janitor would like to work in the production area, and the bookkeeper would like to do air work. You ask whether such voluntary services must be treated as compensable.

Volunteer services are discussed on pages 5 and 6 of the enclosed pamphlet, Employment Relationship. As indicated there, in certain circumstances individuals who are regular employees of a religious, charitable or non-profit organization may donate their services as volunteers and the time so spent is not considered to be compensable "work." This position recognizes that the Act does not necessarily stamp as work those activities performed by persons who without expectation of compensation, might work for their own advantage on the premises of another. The U.S. Supreme Court has stated that the Act's purpose as to wages was to insure that every person whose employment contemplated compensation should not be compelled to sell his services for less than the minimum wage.

In accordance with this guidance, we would not regard time spent by employees of a non-profit organization in voluntary activities as compensable working time under the following circumstances:

- 1) The services are entirely voluntary, with no coercion by the employer, no promise of advancement, and no penalty for not volunteering.
- 2) The activities are predominantly for the employee's own benefit.
- 3) The employee does not replace another employee or impair the employment opportunities of others by performing work which would otherwise be performed by regular employees.
- 4) The employee serves without contemplation of pay.
- 5) The activity does not take place during the employee's regular working hours or scheduled overtime hours.
- 6) The volunteer time is insubstantial in relation to the employee's regular hours.

Sincerely,

Warren D. Landis
Acting Administrator