


U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
Wage and Hour Division
WASHINGTON, D.C. 20210

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20 Aug 1976

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This is in reply to your letter of January 9, 1976, requesting our views on the "administrative" status under section 13(a)(1) of the Fair Labor Standards Act of the positions of PAR Counselor, Lead and PAR Counselor.

In determining whether or not an employee is exempt under section 13(a)(1) as a bona fide administrative employee, all tests relating to duties, responsibilities and salary as described in section 541.2 of the regulations must be met. In this regard, and absent information concerning "earnings", our views are based on the premise that both positions meet the salary tests for exemption, i.e., \$155 per week under the basic test or \$250 per week under the special proviso for high salaried administrative employees.

Based on a review of the information submitted, it appears that the work described for the PAR Counselor, Lead would be of an exempt nature as contemplated by the regulations; however, the work described for the PAR Counselor would not meet the requirements of 541.2 of the regulations, including the special proviso for high salaried administrative employees. It would be our view that the work performed by the PAR Counselor, as opposed to that of the PAR Counselor, Lead, does not appear to require the exercise of independent discretion and independent judgment as such is defined and delimited in the regulations (see section 541.207 of the enclosed Regulations).

We trust that the above is of assistance to your office in this matter.

Sincerely,

Herbert J. Cohen
Assistant Administrator
Wage and Hour Division

Ronald J. James
Administrator