

FLSA-9

January 28, 1980

Thank you for your letter of January 4, 1980, describing University's College work-study and financial aid procedures. You ask if students participating in the work-study program who may or may not receive financial aid, are employees under the Fair Labor Standards Act.

You state that graduate students enrolled in the School of Social Work are required to perform 24 hours of field services per week in order to receive academic credit. These students are working off-campus in public, private, and non-profit agencies providing social services such as counseling and family therapy with individuals and groups. The agencies are providing office space and equipment; and the students are supervised by *** faculty members. Since *** is providing 100% of the student's compensation, a written agreement between the agency and institution is not required under the College Work-Study Program (CWS). Some students may receive financial aid and CWS funds, some receive only CWS funds, and some receive no financial aid or CWS funds.

We will not assert that an employer-employee relationship exists where a student is engaged in original, professional-level research, study or teaching program which is primarily for the purpose of fulfilling the requirements for an advanced degree, even though the students may be performing such duties under a grant or stipend. Where no such relationship exists there is no application of the minimum wage and overtime provisions of the Act.

Sincerely,

Herbert J. Cohen
Assistant Administrator