

January 24, 1983

This is in reply to your letter of December 7, 1982, concerning the application of the exemption under section 13(a)(1) of the Fair Labor Standards Act (FLSA) to a clinical instructor and an coordinator employed by a hospital.

According to your letter and the job descriptions you enclosed, the clinical instructor's primary responsibility is to instruct and direct the clinical education of radiology students at the hospital. The clinical instructor is paid on a salary basis in excess of \$250 per week, and is responsible for implementing the curriculum, clinical evaluation, counseling of students, and necessary scheduling and record keeping.

The education coordinator spends over 50 percent of work time performing teaching and also is responsible for administrative functions relating to the operation of the hospital's medical laboratory technician certificate school and continuing education programs. The education coordinator is paid on a salary basis in excess of \$250 per week. The coordinator participates in the development of program objectives, develops curriculum, prepares lectures and department schedules, develops and administers admissions and dismissal policies, evaluates program effectiveness, and assists in budget planning.

In order to qualify for exemption under section 13(a)(1) of the FLSA, an employee must meet all the pertinent tests relating to the duties, responsibilities, and salary as contained in Regulations, 29 CFR Part 541. A determination on the exempt or nonexempt status of any employee must be on an individual basis that takes into consideration all the pertinent facts relating to the actual work performed by the employee in question, and not on the employee's title or contract of his/her job description.

Based upon your representations concerning the clinical instructor and the education coordinator, it is our opinion such employees can qualify for exemption under section 13(a)(1) as engaged in teaching and administrative duties within the meaning of the regulations. We have previously recognized that a hospital may operate a bona fide educational institution for the purposes of training nursing, radiology, or medical laboratory technology personnel.

We trust the above satisfactorily responds to your inquiry. Please let us know if you have further questions.

Sincerely,

William M. Otter

Administrator