

## FLSA-315

May 10, 1983

Your letter of March 16, 1983, addressed to our Area Office \*\*\* in has been forwarded to this office for reply. You request an opinion as to whether an internship program you plan to establish at your university would create an employment relationship under the Fair Labor Standards Act.

Your state that since students frequently are rejected for jobs due to lack of experience upon graduation from college, you plan to establish an internship program where students would work without pay for a company in order to receive on-the-job experience. The cooperating company or companies would agree to provide training or "make work" assignments as a contribution to the university and students. Academic credit would be granted the students, if required.

Your indicate that you reviewed the six criteria contained in WH Publication 1297, that determine whether or not an employment relationship exists between trainees or students and the employer providing the training. You conclude that all six criteria will be met with the possible exception of the first on requiring that the training be similar to that which would be given in a vocational school. It is our opinion that this requirement is met where the training received by students or trainees is of a similar nature to that which is normally provided by a vocational or academic educational institution.

Where educational or training programs are designed to provide students with professional experience in the furtherance of their education and the training is academically oriented for the benefit for the students, it is our position that the students will not be considered employees of the institution to which they are assigned, provided the six criteria referred to above are met. For example, where certain work activities are performed by students that are but an extension of their academic programs, we would not assert that an employer-employee relationship exists for the purposes of the Act. In situations where students receive college credits applicable toward graduation when they volunteer to perform internships under a college program, and the program involves the students in real life situations and provides the student with educational experience unobtainable in a classroom setting, we do not believe that an employment relationship exists between the students and the facility providing the instruction.

Although we have reviewed the information in your letter, we do not feel that there is enough detail for us to make a definite determination on the question you raise. However, the above discussion should be of assistance to you in determining whether or not the internship program you plan to establish would result in an employment relationship between the students participating in the program and the companies providing the training. If you have any further questions on this matter do not hesitate to let us know.

Sincerely,

Gordon L. Claucherty  
Acting Assistant Administrator  
Wage and Hour Division

William M. Otter  
Administrator