

FEB 27 1997

This is in response to your request for an opinion as to the salary requirements for exempt, part-time employees. You would like to know whether the specific salary requirements for executive, administrative, and professional employees are reduced for part-time employees.

As you know, section 13(a)(1) of the FLSA provides a complete minimum wage and overtime pay exemption for any employee employed in a bona fide executive, administrative, professional, or outside sales capacity. In order to qualify for exemption under this section, an employee must meet all of the tests relating to duties, responsibilities, and salary that are contained in the appropriate section of the Regulations, 29 CFR Part 541 (copy enclosed).

Section 541.118(a) of the regulations states that an employee will be considered to be paid "on a salary basis" within the meaning of the regulations if, under the employee's employment agreement, the employee regularly receives each pay period, on a weekly or less frequent basis, a predetermined amount constituting all or part of the employee's compensation, which amount is not subject to reduction because of variations in the quality or quantity of the work performed. The employee must receive his or her full salary for any week in which he or she performs any work without regard to the number of days or hours worked.

Therefore, it is our opinion that the specific salary requirements for executive, administrative, and professional employees may not be reduced for part-time employees.

This opinion is based exclusively on the facts and circumstances described in your request and is given on the basis of your representation, explicit or implied, that you have provided a full and fair description of all the facts and circumstances which would be pertinent to our consideration of the question presented. Existence of any other factual or historical background not contained in your

request might require a different conclusion than the one expressed herein. You have also represented that this opinion is not sought on behalf of a client or firm which is under investigation by the Wage and Hour Division, or which is in litigation with respect to, or subject to the terms of any agreement or order applying, or requiring compliance with, the provisions of the FLSA.

We trust that the above is responsive to your inquiry.

Sincerely,

Daniel F. Sweeney
Office of Enforcement Policy
Fair Labor Standards Team

Enclosure