

MAY 20 1997

This is in response to your inquiry on behalf of Pastor
of the Pastor is
concerned about the application of the Fair Labor Standards
Act (FLSA) to church employees and to individuals who
volunteer in church activities.

The FLSA applies to employees individually engaged in
interstate commerce or in the production of goods for
interstate commerce and to all employees in certain
enterprises which are so engaged. The FLSA contains no per
se exemption or exception from its requirements for church
employees. The major provisions of the FLSA are explained
in the enclosed Handy Reference Guide to the Fair Labor
Standards Act.

Employees of a church, synagogue, or mosque are individually
covered under the FLSA where they regularly and recurrently
use a computer, telephone, telegraph, or the mail for
interstate communication; or receive, prepare, or send
written material across State lines. Individual coverage
will not be asserted, however, for office and clerical
employees who only occasionally or sporadically devote
negligible amounts of time to writing interstate
communications or otherwise handle interstate communications
or make bookkeeping entries relating to interstate
transactions.

Whether or not enterprise coverage applies to the operations
of a nonprofit religious organization depends on several
factors. Generally enterprise coverage is not applicable to
employees engaged exclusively in the operation of the
church, etc., since their activities are not performed for a
"business purpose" within the meaning of the FLSA. However,
where a nonprofit religious organization employs employees
in connection with the operation of the type of institutions
described in sections 3(r) and 3(s) of the FLSA (hospitals,
elementary or secondary schools, preschools, residential
care institutions, and institutions of higher education),
they will be covered on an enterprise basis, since such

activities have, by statute, been declared to be performed for a business purpose.

Additionally, activities of religious organization may be performed for a "business purpose" where, for example, they engage in ordinary commercial activities such as operating a printing and publishing plant. In this regard, see Mitchell v. Pilgrim Holiness Church Corp., 210 F.2d 879 (7th Cir.), cert. denied, 347 U.S. 1013 (1954); Tony and Susan Alamo Foundation et al. v. Secretary of Labor, 471 U.S. 290 (1985). However, contributions, pledges, donations, tithes and other funds raised through activities such as raffles and games that are used in the furtherance of the educational, eleemosynary and religious activities of a nonprofit organization are not included in computing the annual dollar volume of business done by an enterprise.

Individuals not employed by the church but who volunteer their services without contemplation of pay to serve as lecturers, cantors, ushers, choir members, religious education or "Sunday School" teachers, etc., would not be considered employees. On the other hand, a secretary or bookkeeper employed by the church could not "volunteer" additional services to provide secretarial or bookkeeping services without compensation in accordance with the provisions of the FLSA, but could be an usher, sing in the choir or teach Sunday School. In this regard, we are also enclosing a copy of the publication Employment Relationship Under the Fair Labor Standards Act.

We hope that his discussion of the FLSA and its application to religious institutions will be helpful to Pastor .
If we may be of further assistance, please do not hesitate to contact this office.

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

Enclosures