

JUL 23 1997

Dear

This is in response to your letter requesting clarification of language within the definition of sections 541.118(a) and 541.118(4). We must presume that you mean 541.118(a)(4).

Your specific question and our response are as follows:

- Q. If an exempt employee is out on jury duty for a full week, and performs no work during that week, do they have to be paid their salary during that week (to meet the salary test requirement)?
- A. No. While section 541.118(a)(4) of Regulations, Part 541 states that deductions may not be made for absences of an employee caused by jury duty, attendance as a witness, or temporary military leave, section 541.118(a) states that in any workweek in which the employee performs no work for the employer, the employer need not pay the employee any part of his or her salary. In other words, subsection (a) takes precedence over subsection (a)(4) of section 541.118 in cases where the employee performs no work in the workweek.

To be of further assistance to you, we are enclosing an opinion letter (December 2, 1993) that also discusses your concern.

We trust that the above information is responsive to your inquiry. If we can be of further assistance, please do not hesitate to contact us.

Sincerely,

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