

FLSA-1327

March 10, 1976

This is in reply to your letter of February 6, 1976, asking whether the exemption from the overtime pay requirements provided in section 13(b)(2) of the Fair Labor Standards Act would apply to a campus policeman employed by a publicly operated two-year junior college.

It was not the purpose of the 1974 Amendments, which added section 13(b)(20) to the Act, to deny the protection of the overtime pay provisions to employees in employment which was previously subject to its overtime standards. Campus police employed by publicly operated institutions of higher education, including junior colleges, are engaged in employment which was subject to the Act before the 1974 Amendments and, therefore, do not come within the scope of the overtime pay exemptions provided in section 7(k) or 13(b)(20) of the Act. See 29 CFR 553.8(b), which makes this clear.

The legislative history regarding the status of these exemptions is found in the Congressional Record at H.2295 and 2296 dated March 28, 1974. It involves a colloquy between Congressman *** and Congressman *** asked whether it was the intent of the Committee to cover, by such language, employees who are engaged in the rescue-ambulance services--activities of a public agency. Congressman *** stated: "The gentleman is correct that provision, section 6(c), is intended to cover those employees directly employed by a public agency who are engaged in rescue or ambulance services which are substantially related to fire protection or law enforcement activities. In some instances, these rescue or ambulance crews are a part of the fire or police department. In other cases, they must be under a separate department of the same public agency but their activities substantially include rescue and ambulance work associated with the fire protection and law enforcement. In that case, these employees are covered by the unique provisions of section 6(c). However, if the employer was covered by the overtime provisions of section 7 of the Act prior to these amendments, then its employees would not, by operation of the conference report, be brought under section 6(c). That section only related to the treatment for overtime purposes of employers newly covered by section 6 of the Act."

Your interest in this matter is appreciated.

Sincerely,

Ronald J. James
Administrator

Enclosure