

FLSA-162

April 22, 1976

This is in reply to your letter of November 18, 1975, concerning the status under the Fair Labor Standards Act of members of the Student Union Board of Representatives of the *** College in *** .

Before consideration need be given to the stipend paid these students, it is necessary to ascertain whether there exists an employer-employee relationship under the law between the students and the College. It appears that the members of the Student Union Board are elected by and serve at the will of the student body. The Student Union exists for the sole purpose of representing student interests at the College. The Board members are in effect paid by the Student Union out of funds collected from student fees. The available information also indicates that the College does not exercise any direct supervision or control over the activities of the Union or its members in the conduct of their duties for the student body.

In our view the operation of the Student Union would not constitute an activity performed in connection with the operation of the college enterprise so as to create an employer-employee relationship between the Student Union Board members and the College within the contemplation of the Act. Without the prerequisite employment relationship, the law's monetary provisions would not apply and the matter of reimbursement would be one for private agreement between the concerned parties.

Sincerely,

Administrator