

## **FLSA 1263**

June 28, 1994

This is in response to your letter of February 8, requesting an opinion as to whether an employment relationship exists under the Fair Labor Standards Act (FLSA) between graduate students and a medical institution where they are engaged as research assistants while working full-time toward fulfilling the requirements of a Ph.D. degree.

You state that a nonprofit medical center and medical research institution (institution) is in the process of establishing a doctoral program in the biomedical sciences. The institution has received approval from the State of \*\*\* to operate a degree granting institution (graduate school). Forty faculty members for the graduate school have been recruited from the Ph.D. and Medical Doctors on the staffs of the institution.

Students will complete a program of study that is structured similarly to other Ph.D. granting institutions. Students will be required to complete a core curriculum of coursework, and then will be required to take a written and oral examination of their core curriculum. Students will be required to engage in original, professional-level research. After completing their basic requirements, students will concentrate the bulk of their time on their dissertation laboratory research project and continue to participate in seminars.

The graduate school will not charge tuition or admissions fees. Books and materials will be provided to the students when necessary. Students enrolled in the graduate school will be awarded a stipend provided they make satisfactory progress toward the completion of the Ph.D. requirements. The stipend will be \$21,600 per year if the student is subject to Federal and State income tax laws, and \$18,000 per year if the student is exempt from such laws. In addition, students will be provided with health insurance.

The FLSA is the Federal law of most general application concerning wages and hours of work. Where an employment relationship exists under the FLSA, all covered and nonexempt employees must be paid a minimum wage of not less than \$4.25 an hour for all hours worked and not less than one and one-half times their regular rates of pay for all hours worked in excess of 40 in a workweek, unless specifically exempt.

It is our position that in cases where graduate students in a graduate school are engaged in research in the course of obtaining advanced degrees and where the research is performed under the supervision of a member of the faculty in a research environment provided by the institution under a grant or contract, we will not assert an employee-employer relationship exists between the students and the school, or between the student and the grantor or contracting agency, even though the student receives a stipend for his or her services under the grant or contract. Where no employment relationship exists, there is no application of the minimum wage and overtime pay provisions of the FLSA.

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 presented. Existence of any other factual or historical background not contained in your request might require a different conclusion than the one expressed herein.

We trust that the above is responsive to your inquiry.

Sincerely,

Maria Echaveste  
Administrator