

U.S. Department of Labor

Office of Pension and Welfare Benefit Programs
Washington, D.C. 20210



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85-03A
Sec. 3(4). 3(1)

Mr. James S. Ray
Connerton, Bernstein & Katz
Suite 800
1899 L Street, N.W.
Washington, D.C. 20036

Dear Mr. Ray:

This is in reply to your letters of August 27, September 10, and September 14, 1984, and as a result of our advisory opinion issued to Mr. Tony Schrader, Deputy Commissioner of the Insurance Department of the State of Iowa (copy enclosed), regarding the arrangement between the Sioux City Community School District of Sioux City, Iowa, and the Wisconsin Education Association Insurance Trust (WEA Insurance Trust) under title I of the Employee Retirement Income Security Act of 1974 (ERISA). This opinion revokes Opinion 83-36A (issued July 5, 1983) regarding the status of the WEA Insurance Trust under title I of ERISA.

In issuing Opinion 83-36A, it was our understanding of the representations made to the Department of Labor (the Department) that only individuals who are members of the Wisconsin Education Association (WEA) or similar affiliates of the National Education Association (NEA), officers and employees of such NEA affiliates, and employees of the WEA Insurance Trust would be eligible to participate in the WEA Insurance Trust.

You have advised that other individuals are also being included as participants in the WEA Insurance Trust -- employees of school districts not in any collective bargaining unit and employees of school districts represented by another labor organization. Although the WEA and the other state or local associations affiliated with NEA who sponsor the WEA Insurance Trust remain employee organizations with respect to their own members, they are not employee organizations with respect to these other individuals employed by the school districts, notwithstanding the fact that such individuals are employed by school districts with collective bargaining relationships with union sponsors of the WEA Insurance Trust.

Thus, the WEA Insurance Trust program of benefits for such employees of school districts was not established and is not maintained by an employee organization within the meaning of section 3(4) of title I of ERISA with respect to those employees.

For this reason, Opinion 83-36A is revoked. See section 10 of ERISA Procedure 76-1 (issued August 27, 1976, copy enclosed). Instead, the Department would view the situation as stated in the opinion letter to Mr. Schrader.

This letter constitutes an advisory opinion under ERISA Procedure 76-1. Accordingly, this letter is issued subject to the provisions of the procedure, including section 10 thereof relating to the effect of advisory opinions.

Sincerely,

Elliot I. Daniel
Acting Assistant Administrator for Regulations and Interpretations

Enclosures