

3(1)
3(4)
4(a)

April 22, 1976

Dear :

This is in response to your request for a determination of the status of the Scholarship Fund (Fund) under the Employee Retirement Income Security Act of 1974 (ERISA). You also request that if the Fund is deemed to be covered under the ERISA, the Secretary of Labor indicate an alternative method of compliance. The Fund membership consists of all members of the Counties Labor Council, which is composed of representatives from all county labor organizations affiliated with the AFL-CIO. Your letter dated December 11, 1975, states that one of the purposes of the Council is to provide a forum for the peaceful resolution of jurisdictional disputes and assist in labor negotiations.

The Fund annually awards four scholarships of \$750 each with the sole requirement that the recipient be a resident of County. A fifth scholarship is awarded annually to a County high school senior who must be the child of a person presently a member of a labor organization affiliated with the Counties Labor Council.

The term "employee welfare benefit plan" includes any plan, fund or program established or maintained by an employee organization for the purpose of providing scholarship funds for its participants or their beneficiaries (section 3 (1)). The term "employee organization" includes "any labor union or any organization of any kind, or any agency or employee representation committee, association, group, or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning an employee benefit plan, or other matters incidental to employment relationships;. . ." (section 3(4)). Also, section 4(a) provides that Title I of the ERISA shall apply to any employee benefit plan if it is established or maintained by any employee organization or organizations representing employees engaged in commerce or in any industry or activity affecting commerce.

Based on the information that the Council provides a forum for the resolution of jurisdictional disputes, assists in labor negotiations and is composed of representatives from all county labor organizations affiliated with the AFL-CIO, the Council is an employee organization within the meaning of section 3(4). Since the Fund membership consists of all members of the Council, the Fund also would be an employee organization within the meaning of section 3(4). However, the benefits provided (scholarships) are primarily for the benefit of the whole community, not for the benefit of the members of the employee organizations. Only one of the scholarships is awarded to a beneficiary of a member of a labor organization. The Fund, therefore, would not be covered under section 4(a) because it is not established or maintained for the purpose of providing benefits for its participants or their beneficiaries.

Sincerely,