

April 13, 1976

Dear :

This is in response to your letter of October 24, 1975, addressed to the Secretary of Labor on behalf of the Employee's Association regarding the Employee Retirement Income Security Act of 1974 (ERISA). In that letter, you requested (1) an exemption from the trust requirements of section 403(a) of ERISA and (2) a modification of the reporting requirements of Part 1 of Title I of the same Act.

With respect to your request for an exemption under section 403(a) of ERISA, your plan would not fall within the category of plans to be exempted from the trust requirement under the proposed regulation (copy attached) issued under section 403(b)(4) of ERISA. In your letter of October 24, 1975, you state that the plan is funded with employee contributions. The Department of Labor is currently considering the comments received on the attached regulation prior to publication of such regulation in final form. You should note, however, that the rationale given in the preamble to the proposed regulation for the trust requirement would appear to be applicable to your situation. The preamble to the proposed regulation provides that the trust requirement is necessary "to prevent comingling of plan assets with assets belonging to the person managing the plan assets." None of the comments on the proposed regulation suggested that this rationale was inappropriate. In view of the safeguards provided by the trust requirement, it would appear to be inappropriate to grant the exemption you request.

With respect to your request for modification of the reporting requirements imposed by Part 1 of Title I of ERISA, on August 15, 1975, the Department of Labor granted limited exemptions from reporting requirements to certain welfare plans. These exemptions did not include funded scholarship plans, however, and at the present time, it is not anticipated that the exemption will be extended to these plans.

Should you have any further questions, please contact (us).

Sincerely,