

January 21, 1976

Dear :

Your letter of November 24, 1975 concerning the Employee Retirement Income Security Act of 1974 (ERISA) has been referred to this office by the Wage and Hour Division of the Department of Labor.

The inquiry referred to in your letter, which was directed to you from [Name] of (City) concerned the intention of [Name]'s employer to terminate her from her part-time employment prior to her completion of 1,000 hours of service during the employer's current fiscal year. On the sole basis of the statements contained in 's letter, it appears that the employer's actions may be in response to ERISA's general definition of a "year of service" as a particular 12-month period during which the employee completes not less than 1,000 hours of service. Years of service are one of the factors considered under the Act in determining the employee's entitlement under a pension plan.

We are presently considering whether and under what circumstances a violation of ERISA would occur by virtue of an employer's limitation of hours of service for part-time employees to fewer than 1,000 hours per year. If a violation is indicated, section 502 of ERISA presents a broad range of remedies which may be sought in federal court by an aggrieved plan participant or beneficiary, or by the Secretary of Labor.

While we wish to provide an early reply to your inquiry, the issue presented is a difficult one which requires complete and thorough consideration. We will endeavor to respond fully as soon as possible.

Sincerely,