

U.S. DEPARTMENT OF LABOR
Pension and Welfare Benefit Programs
Washington, D.C 20216



APR 25 1977

Mr. David E. Gordon
O'Melveny & Myers
611 West Sixth Street
Los Angeles, California 90017

OPINION 77-90 A

3(1)
104(a)(3)

This is in reply to your letter concerning the Employee Retirement Income Security Act of 1974 (ERISA). We regret that the volume of correspondence has resulted in a delay in responding.

You state that you represent the Tucson Gas & Electric Company (TG&E) which maintains an apprenticeship training program for its union represented employees pursuant to a collective bargaining agreement with the International Brotherhood of Electrical Workers, Local Union No. 1116 (Union). The program consists of six six-month periods of apprenticeship. Under the program, payments are made from the general assets of TG&E and can be viewed as falling into four categories: salary of an administrator, wages of apprentices, expenses of classroom instruction, and miscellaneous expenses such as tools or equipment used in the program. It is contemplated that the Union will reimburse TG&E from time to time in an amount equal to one-half of the educational expenses of the program. You question whether this program would be a welfare plan within the meaning of section 3(1) of ERISA.

Section 3(1) of ERISA includes within the definition of the term "welfare plan" any program established or maintained by an employer or employee organization to the extent that it provides apprenticeship or training services to participants. As welfare plans, such programs are subject to Parts 1, 4, and 5 of Title I of ERISA.

Section 2510.3-1(b)(3)(iv) of regulations issued by the Department on August 15, 1975 (copy enclosed), to which you refer, indicates that the payment of compensation on account of periods during which an employee is engaged in training is a payroll practice which will not be deemed a welfare plan within the meaning of section 3(1) of ERISA. The plan you describe would not, however, be

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considered such a payroll practice because payments to the program are made for other than the compensation of employees for time spent in training.

Therefore, the apprenticeship program maintained by TG&E is a welfare plan within the meaning of section 3(1) of ERISA and is subject to the provisions of Parts 1, 4, and 5 of Title I. As an apprenticeship plan, the program is eligible for the limited exemption from the reporting and disclosure requirements which is provided by section 2520.104-22 of the August 15, 1975 regulations.

This letter constitutes an advisory opinion under ERISA Procedure 76-1, copy enclosed.

Sincerely,

Fred W. Stuckwisch
Director
Office of Regulatory Standards
and Exceptions

Enclosures