

**FLSA2026-12**

September 7, 2026

Dear **Name***:

This letter addresses whether, to what extent, and under what circumstances exempt employees of a nonprofit organization that breeds and trains service dogs may volunteer outside of their normal work hours to perform juvenile canine socialization¹ services for the employing organization pursuant to the Fair Labor Standards Act (FLSA or Act).

As explained below, your nonprofit organization's exempt employees may volunteer for the organization to provide juvenile canine socialization services at home so long as they do so freely and without coercion, with no contemplation of pay for the volunteer services rendered, and the volunteer services are not the same type of services you employ the employees to perform. If, on the other hand, the volunteer services do not satisfy these conditions, the employee would be performing the additional services as part of the employment relationship, not as a volunteer, and the time would be hours worked under the Act as long as it otherwise qualifies as compensable hours worked. However, an employee who is exempt from the minimum wage and overtime requirements under section 13(a)(1) may perform additional juvenile canine socialization work without additional compensation if the employee's primary duty remains the performance of exempt work and the employee continues to satisfy the salary requirements for the exemption.

BACKGROUND

You inquire on behalf of a private, nonprofit organization that breeds, raises, and trains service dogs to assist individuals with visual impairments and veterans with post-traumatic stress disorder. According to your letter, the organization has a staff comprised of exempt and non-exempt employees engaged in its day-to-day operations. In addition, the organization allows non-employee volunteers, referred to in this letter as juvenile canine caretakers, who provide basic care, early training, and socialization for the puppies in the volunteers' homes before the puppies receive the organization's specialized training at its onsite facilities.

You state that several employees claimed by the nonprofit organization as exempt under the Act, including "veterinarians," "service dog instructors" (trainers), and "directors that oversee the instructors" (directors), have expressed interest in serving as juvenile canine caretakers in

¹ In your letter, you refer to this work as "puppy raising" and the volunteers who provide the services as "puppy raisers." For purposes of broader applicability, we refer to the work at issue as "juvenile canine socialization," and the service providers as "juvenile canine caretakers."

their homes outside of working hours.² You state that some of these employees have requested to provide juvenile canine socialization services on a purely voluntary basis, and that volunteering as juvenile canine caretakers is neither a job requirement nor benefit, and will not interfere with the employee's regular work responsibilities.

GENERAL LEGAL PRINCIPLES

A. The Fair Labor Standards Act

The Act requires covered employers to pay employees at least the federal minimum wage for all hours worked and overtime pay at a rate of not less than one and one-half times the employee's regular rate of pay for all hours worked in excess of 40 in a workweek. *See* 29 U.S.C. §§ 206(a), 207(a). In enacting the FLSA, however, Congress did not intend "to stamp all persons as employees who, without any express or implied compensation agreement, might work for their own advantage." *Tony & Susan Alamo Found. v. Sec'y of Lab.*, 471 U.S. 290, 300 (1985) (quoting *Walling v. Portland Terminal Co.*, 330 U.S. 148, 152 (1947)). Indeed, the Wage and Hour Division (WHD or Division) has long recognized the generosity of the American people, and the attending public benefits of volunteering and that an employment relationship does not exist when individuals volunteer their time, expertise, services, or labor—in one capacity or another, usually on a part-time basis, and with no contemplation of pay for the services rendered—to religious, charitable, and nonprofit organizations and school institutions. *See* WHD Field Operations Handbook (FOH) 10b03(c), (d); *see also* WHD Op. Ltr. FLSA-307 (May 24, 1968); WHD Op. Ltr. FLSA-596 (Dec. 3, 1975), 1975 WL 40992; WHD Op. Ltr. 1994-0031 (Sep. 8, 1994), 1994 WL 1004869; WHD Non-Admin. Op. Ltr., 1999 WL 1788160 (Sep. 30, 1999); [WHD Op. Ltr. FLSA2006-18 \(June 1, 2006\)](#); [WHD Op. Ltr. FLSA2018-22 \(Aug. 28, 2018\)](#).

B. Volunteering by Employees for Their Employer

For purposes of the Act, an employment relationship does not exist when a public sector employee volunteers to perform services to the employing public agency, so long as the individual receives no compensation to perform the volunteer services,³ and such services are

² As a preliminary matter, we assume your organization or the employees at issue satisfy the Act's requirements for coverage. Your letter does not specify the basis for claiming an exemption for these employees. However, we infer that you have classified these employees as exempt under section 13(a)(1), which applies to any employee employed in a "bona fide executive, administrative, or professional capacity." 29 U.S.C. § 213(a)(1). To the extent these employees are in fact exempt under section 13(a)(1) of the Act, we further note that your letter does not indicate whether these employees would be classified as exempt executives, administrators, or professionals. We express no opinion on the application of section 13(a)(1).

³ Volunteers may be "paid expenses, reasonable benefits, or a nominal fee." 29 U.S.C. § 203(e)(4)(A); *see also* 29 C.F.R. § 553.106(a) ("Volunteers may be paid expenses, reasonable benefits, a nominal fee, or any combination thereof, for their service without losing their status as volunteers"); [WHD Op. Ltr. FLSA2008-16 \(Dec. 18, 2008\)](#) ("The regulations focus on preventing payment for performance, which

not the same type of services for which the individual is employed to perform for the public agency. 29 U.S.C. § 203(e)(4)(A). In addition, the Division's regulations clarify that individuals are volunteers "only where their services are offered freely and without pressure or coercion, direct or implied, from an employer." 29 C.F.R. § 553.101(c).

Although the FLSA does not include a similar express provision for private, nonprofit employers, the Division has consistently applied the same requirements to employees of religious, charitable, or nonprofit organizations who volunteer their services to their employing organization for civic, charitable, or humanitarian reasons. [WHD Op. Ltr. FLSA2008-14 \(Dec. 18, 2008\)](#); *see also* WHD Non-Admin. Op. Ltr., 1999 WL 1788160 (Sep. 30, 1999) (explaining the circumstances under which nonprofit employees may volunteer for their employing organization); FOH 10b03(d) (generally describing permissible volunteering activities by employees of nonprofit organizations).

Accordingly, an employee of a nonprofit organization may, freely and without coercion from the employer or its agents, volunteer to perform work that is neither the same nor of similar type as the work that the employee is employed to perform. Put another way, a nonprofit employee cannot be both a paid employee and a non-paid volunteer while performing the same type of work for the same employer. *See* WHD Non-Admin. Op. Ltr., 1999 WL 1788160 (Sep. 30, 1999) (noting that an "employee of a not-for-profit organization may not volunteer to perform the same type of services that they perform as a part of their regular job"); [WHD Op. Ltr. FLSA2006-18 \(June 1, 2006\)](#) ("Due to the possibility of coercion to perform unpaid services, paid employees may not volunteer to perform the same type of services for their employer that they are normally employed to perform"). When a nonprofit employee volunteers to do the same type of work that the employee is employed to perform, the Division has long considered that volunteer work an indivisible part of the employment relationship for FLSA purposes, and, as such, it may constitute hours worked. *See* [WHD Op. Ltr. FLSA2005-33 \(Sep. 16, 2005\)](#). Additionally, employees cannot agree, or be required to "agree," to waive their rights to compensation under the FLSA under the guise of volunteering. *See, e.g., Barrentine v. Arkansas-Best Freight Sys., Inc.*, 450 U.S. 728, 740 (1981) (an employee's right under the FLSA to receive compensation "cannot be . . . waived because this would nullify the purposes of the statute and thwart the legislative policies [the FLSA] was designed to effectuate") (internal quotation marks omitted); *Brooklyn Savings Bank v. O'Neil*, 324 U.S. 697, 705–06 (1945).

"The phrase 'same type of services' means similar or identical services." 29 C.F.R. § 553.103(a). Determining whether volunteered services are the "same or similar" to those the volunteer is employed to perform requires "consideration of all the facts and circumstances in a particular case, including whether the volunteer service is closely related to the actual duties performed by or responsibilities assigned to the employee." *Id.* One potentially relevant consideration is how the volunteer services and the services that the volunteer is employed to perform are defined by the three-digit categories of occupations in the Dictionary of

is inconsistent with the spirit of volunteerism contemplated by the FLSA. Thus, a fee would not be considered nominal if it is, in fact, a substitute for compensation or tied to productivity").

Occupational Titles, as now replaced by the O*NET⁴ system, maintained and updated by the Department of Labor's Employment and Training Administration.⁵ *See id.*; *see also* [WHD Op. Ltr. FLSA2008-16 \(Dec. 18, 2008\)](#).

The Division has previously explained, for example, that an office employee of a hospital could volunteer to sit with a sick child or elderly person during off-duty hours as an act of charity. WHD Non-Admin. Op. Ltr. 1994-31, 1994 WL 1004869 (Sep. 8, 1994). Similarly, a bus driver for a school district could volunteer to be an assistant coach for the school's basketball team because the duties performed by a bus driver are sufficiently different from those performed by a coach. [WHD Op. Ltr. FLSA2004-6 \(July 14, 2004\)](#). WHD has likewise made clear that a secretary employed by an organization that provides programming services to at-risk youth could volunteer to chaperone a trip where the duties the secretary was employed to perform did not involve supervising children. [WHD Op. Ltr. FLSA2006-18 \(June 1, 2006\)](#) (but noting "a counselor whose regular duties involve supervising children may not volunteer to chaperone a trip"); *see also* [WHD Op. Ltr. FLSA2006-2 \(Jan. 13, 2006\)](#) (a city employee responsible for the administration, implementation, and enforcement of city zoning codes and regulations could volunteer as a reserve police officer for the city because the employee's duties did not involve the type of law enforcement activities performed by a police officer).

In contrast, we have also determined that a bus driver employed by a school district could not volunteer to drive the school's basketball team to away games because an individual who is a bus driver provides "a service of transporting students" and thus, "[d]riving a school bus constitutes the same, identical or similar service . . . regardless of the characterization of the passengers . . . and of whether the transportation is to and from school or school authorized activities." [WHD Op. Ltr. FLSA2004-6 \(July 14, 2004\)](#). Likewise, detention officers could not volunteer as reserve peace officers for the same public employer because "[s]ome duties performed by a detention officer (jailer) are similar to those performed by a reserve peace officer" and "public safety employees taking any kind of security or safety function within the same local government are never considered to be employed in a 'different capacity.'" WHD Non-Admin. Op. Ltr., 1992 WL 845088 (Mar. 18, 1992) (emphasis omitted); *see also* WHD Non-Admin. Op. Ltr., 1999 WL 1002362 (Jan. 29, 1999) (concluding that nonprofit employees employed to care for and train dogs could not be treated as volunteers when they voluntarily took the organization's puppies into their homes and cared for them as their own pet for approximately 18 months); WHD Op. Ltr., 1994 WL 1004835 (June 8, 1994) ("[P]olice [canine] officers employed by a local government may not volunteer additional dog care services to their employer in the same capacity without compensation in accordance with the provisions of the FLSA"); *cf.* [WHD Op. Ltr. FLSA-1112 \(Aug. 11, 1993\)](#) (determining that time spent by a police officer at home in caring for and training a police dog is compensable under the FLSA).

⁴ *See* Matthew Mariani, *Replace with a Database: O*NET Replaces the Dictionary of Occupational Titles*, U.S. Bureau of Labor Statistics, Occupational Outlook Quarterly, Spring 1999, at 3, <https://www.bls.gov/careeroutlook/1999/Spring/art01.pdf>.

⁵ O*NET is available at <https://www.onetonline.org> and additional information about O*NET can be found at <https://www.dol.gov/agencies/eta/onet>.

C. The Section 13(a)(1) Exemption

The Act includes a number of exemptions from its wage and hour requirements, including section 13(a)(1), which exempts from both the minimum wage and overtime requirements any employee employed in a “bona fide executive, administrative, or professional capacity.” 29 U.S.C. § 213(a)(1). Congress did not define these terms, but rather directed the Secretary of Labor to define those terms through rulemaking. Pursuant to explicit rulemaking authority, the Secretary delegated that responsibility to the Administrator of the Wage and Hour Division, who has issued regulations to define and delimit the terms of the section 13(a)(1) exemption, including both compensation and duties elements, since 1938. *See* 29 C.F.R. Part 541; Secy’s Order 01-2014, [79 Fed. Reg. 77527 \(Dec. 24, 2014\)](#); *see also* [3 Fed. Reg. 2518 \(Oct. 20, 1938\)](#) (setting initial salary level at \$30 per week); *Batterton v. Francis*, 432 U.S. 416, 425 n. 9 (1977); *Addison v. Holly Hill Fruit Products, Inc.*, 322 U.S. 607, 613 n.6 (1944) (authority given to define and delimit the terms “bona fide executive, administrative, professional”).⁶

1. Primary Duty

To be exempt under section 13(a)(1), an employee must satisfy certain duties requirements. *See, e.g.*, 29 C.F.R. §§ 541.100, 541.200, 541.300, 541.400, 541.500. Among other things, as a general matter an employee’s “primary duty” must be the performance of exempt work. *See*, 29 C.F.R. §§ 541.700, 541.702. The phrase “primary duty” means:

[The] principal, main, major or most important duty that the employee performs. Determination of an employee’s primary duty must be based on all the facts in a particular case, with the major emphasis on the character of the employee’s job as a whole. Factors to consider when determining the primary duty of an employee include, but are not limited to, the relative importance of the exempt duties as compared with other types of duties; the amount of time spent performing exempt work; the employee’s relative freedom from direct supervision; and the relationship between the employee’s salary and the wages paid to other employees for the kind of nonexempt work performed by the employee.

29 C.F.R. § 541.700(a). The regulation further provides that “the amount of time spent performing exempt work can be a useful guide in determining whether exempt work is the primary duty of an employee,” and thus, an employee who spends more than 50 percent of his time performing qualifying exempt work will generally satisfy the primary duty requirement. 29 C.F.R. § 541.700(b). However, it sets forth a more qualitative analysis, and therefore, an employee’s status cannot necessarily be inferred solely from the amount, or percentage, of time spent. *See id.* (“Employees who do not spend more than 50 percent of their time performing

⁶ The duties requirements promulgated in 1938 saw significant revision and modernization in 1940, 1949, and 2004. *See* 5 Fed. Reg. 4077 (Oct. 15, 1940); 14 Fed. Reg. 7705 (Dec. 24, 1949); 69 Fed. Reg. 22122 (Apr. 23, 2004); *see also* 14 Fed. Reg. 7730 (Dec. 28, 1949) (codifying an “explanatory bulletin” interpreting the part 541 exemption requirements “in the light of their application to specific factual situations”).

exempt duties may nonetheless meet the primary duty requirement if the other factors support such a conclusion”). Accordingly, for an employee to qualify for the exemption, “there is no strict percentage limitation on the performance of non-exempt work,” as long as the employee’s primary duty remains the performance of exempt work. *See* 69 Fed. Reg. 22122, 22137 (Apr. 23, 2004); *see also* [WHD Op. Ltr. FLSA2026-5 \(May 28, 2026\)](#); [WHD Op. Ltr. FLSA2005-14 \(Mar. 17, 2005\)](#).

2. Salary Basis and Level

In addition to the duties requirements, to be exempt under section 13(a)(1), an employee must be compensated (1) on a salary basis (2) at a rate equaling or exceeding the level specified in the regulations. 29 C.F.R. § 541.602(a); *see generally* 29 C.F.R. Part 541, Subpart G.⁷ The salary basis requirement is satisfied “if the employee regularly receives each pay period . . . a predetermined amount constituting all or part of the employee’s compensation, which amount is not subject to reduction because of variations in the quality or quantity of the work performed.” 29 C.F.R. § 541.602(a). Subject to certain exceptions, “an exempt employee must receive the full salary for any week in which the employee performs any work without regard to the number of days or hours worked.” *Id.*⁸

3. Impact of Volunteering on an Employee’s Exemption Status

The framework for determining whether “volunteer” work is part of the FLSA employment relationship applies the same way to exempt and non-exempt employees. *See supra* at 2–4; *see also* 29 C.F.R. § 553.101 (stating “[a]n individual shall not be considered a volunteer if the individual is otherwise employed by the same public agency to perform the same type of services as those for which the individual proposes to volunteer” without making distinction based on exemption status); [WHD Op. Ltr. FLSA2005-33 \(Sep. 16, 2005\)](#) (applying the same standard to determine whether the time spent volunteering by exempt and non-exempt

⁷ The minimum salary level is \$684 per week. *See* 29 C.F.R. § 541.600. After initially setting the salary level in 1938, the Division updated the salary levels in 1940, 1949, 1958, 1963, 1970, 1975, 2004, and 2019, sometimes assigning different levels to each section 13(a)(1) exemption. *See* 3 Fed. Reg. 2518 (Oct. 20, 1938); 5 Fed. Reg. 4077 (Oct. 15, 1940); 14 Fed. Reg. 7705 (Dec. 24, 1949); 23 Fed. Reg. 8962 (Nov. 18, 1958); 28 Fed. Reg. 9505 (Aug. 30, 1963); 35 Fed. Reg. 883 (Jan. 22, 1970); 40 Fed. Reg. 7091 (Feb. 15, 1975); 69 Fed. Reg. 22122 (Apr. 23, 2004); 84 Fed. Reg. 51230 (Sep. 27, 2019); *see also* 91 Fed. Reg. 27833 (May 15, 2026). Other attempts by the Department to revise the salary level were either proposed but not finalized or issued and subsequently rejected by federal courts. *See* 46 Fed. Reg. 3010 (Jan. 13, 1981); 46 Fed. Reg. 11972 (Feb. 12, 1981); 50 Fed. Reg. 47696 (Nov. 19, 1985); 81 Fed. Reg. 32391 (May 23, 2016); 89 Fed. Reg. 32842 (Apr. 26, 2024).

⁸ The salary requirements do not apply, as may be relevant here, to bona fide practitioners of medicine, including Doctors of Veterinary Medicine (DVM) or *Veterinariae Medicinae Doctoris* (VMD) who hold a valid license and are actually engaged in the practice of medicine. *See* 29 C.F.R. § 541.314; *Clark v. United Emergency Animal Clinic, Inc.*, 390 F.3d 1124, 1128 (9th Cir. 2004), supplemented, 123 F. App’x 736 (9th Cir. 2004) (holding that the salary basis requirement does not apply to doctors of veterinary medicine).

employees alike is time worked for FLSA purposes); WHD Non-Admin. Op. Ltr., 1999 WL 1788160 (Sep. 30, 1999) (same).

An employee's exemption status can become relevant, however, if the "volunteer" work does not satisfy the conditions for volunteering required by the Act and explained in the Division's regulations, including, for example, if the volunteer duties are of the same or similar type as those the employee is employed to perform, and thus are part of the employment relationship. In those circumstances, for a non-exempt employee, the employer must pay for all combined hours worked, including any "volunteer" hours, pursuant to the Act. See [WHD Op. Ltr. FLSA2005-29 \(Aug. 26, 2005\)](#); WHD Non-Admin. Op. Ltr., 1999 WL 1788160 (Sep. 30, 1999); see also 29 C.F.R. Part 785. On the other hand, for an exempt employee, the employer is not required to pay any additional compensation beyond the salary required for the exemption for the extra work, so long as the employee's primary duty remains the performance of exempt work and the employee otherwise satisfies the exemption. See [WHD Op. Ltr. FLSA2026-5 \(May 28, 2026\)](#) (concluding the performance of additional non-exempt work by an otherwise exempt employee did not alter the employee's exempt status as long as the salary requirements continue to be met and the employee's primary duty remains the performance of exempt work); [WHD Op. Ltr. FLSA2005-14 \(Mar. 17, 2005\)](#) (noting that "no additional compensation beyond the guaranteed salary required for exemption" is required for "exempt employees who perform extra work" where the primary duty of the employee remains the performance of exempt work).

OPINION

A. Volunteering by Employees

Exempt and non-exempt nonprofit employees alike may volunteer to be juvenile canine caretakers, and their volunteering hours will not count as compensable work, or part of the employment relationship, for FLSA purposes, so long as the services the employer employs them to perform are not the same or similar with those involved in raising puppies at home. Of course, as explained above, the employees must also offer their volunteer services "freely and without pressure or coercion, direct or implied" from your organization and "without promise, expectation or receipt of compensation for services rendered." See 29 C.F.R. § 553.101(a), (c); see also [WHD Op. Ltr. FLSA2006-18 \(June 1, 2006\)](#); [WHD Op. Ltr., FLSA2008-16 \(Dec. 18, 2008\)](#). As presented, we assume for the purposes of this letter that the employees at issue are seeking to volunteer as juvenile canine caretakers freely, without coercion, and without expectation of compensation for services rendered.

You ask "whether exempt employees—such as veterinarians, service dog instructors, or directors that oversee the instructors— may . . . raise a puppy on a purely voluntary basis[.]"⁹ We start by emphasizing again that whether an employee may serve as a volunteer does not *depend* on his or her exempt status; both exempt and nonexempt workers may, of course, volunteer their time and service to the nonprofit that employs them. But, as explained below,

⁹ To the extent your organization employs other categories of exempt employees, however, we cannot evaluate whether those employees may volunteer because your letter does not list their occupations or describe their duties.

exempt status carries different implications for the compensability of time spent performing juvenile canine socialization services, if the employee is not a bona fide volunteer.

Based on a general understanding of the work that veterinarians typically perform,¹⁰ we assume for the purposes of this letter that the veterinarians' duties involve providing medical care to the canines, such as diagnosing and treating sick or injured dogs, and do not include providing non-medical care to, training, or socializing juvenile canines.¹¹ Likewise, we assume for the purposes of this letter that the directors' duties involve supervising employees and do not include directly caring for, training, socializing, or otherwise interacting with the juvenile canines. As such, the veterinarians' and directors' duties would be sufficiently different from the routine care, socialization, and early training involved in raising juvenile canines, and veterinarians and directors could volunteer to provide these services in their homes. *See, e.g., WHD Op. Ltr. FLSA2006-18 (June 1, 2006).*

The result is different for trainers. As discussed above, juvenile canine socialization includes not only routine care but also training. If the nonprofit employs trainers to provide specialized training for canines, as your letter implies, or to care for or socialize the canines, those duties would likely be the same or sufficiently similar to the services performed by juvenile canine caretakers, such that the trainers may not volunteer for your organization to care for or train canines at home. *See WHD Op. Ltr., 1999 WL 1002362 (Jan. 29, 1999).* This is true regardless whether the employee also performs other work, including exempt work, or whether the employee's primary duty for purposes of the section 13(a)(1) exemption is caring for or training canines.

For veterinarians and directors whose job duties differ sufficiently from those involved in juvenile canine socialization, the time the employee spends as a volunteer juvenile canine caretaker would not be part of the employee's employment relationship with your organization for FLSA purposes. In contrast, if the services you employ the employee to perform involve the same or similar type of activities as those involved in juvenile canine socialization, the volunteer hours are part of the employment relationship and must be counted as hours worked for FLSA purposes as long as they qualify as compensable worktime under the FLSA. *See WHD Op. Ltr. FLSA-1112 (Aug. 11, 1993)* (providing illustrative examples of compensable activities an employee could engage in when caring for a dog at home, including "bathing, brushing, exercising, feeding, grooming, related cleaning of the dog's kennel or transport vehicle, and similar activities").

¹⁰ Because your letter does not describe the duties of the veterinarians, directors, and trainers you employ, we are not able to determine definitively whether your employees in those positions in fact perform the same or similar type of activities as those involved in providing juvenile canine socialization services at the volunteers' homes.

¹¹ The O*NET description of duties for veterinarians is available at <https://www.onetonline.org/link/summary/29-1131.00>.

B. Effect of Additional Non-Volunteer Work on Exemption Status

As discussed above, for an employee employed to perform services that are sufficiently different from those involved in volunteering as a juvenile canine caretaker, and all other requirements for volunteering are satisfied, the time the employee spends performing such volunteer work is not subject to the Act—regardless of whether the employee is exempt or non-exempt. As a result, for such an employee, performing volunteer juvenile canine socialization work will have no effect on the employee’s exemption status, because the time spent volunteering is not part of the employment relationship under the Act.

Where, however, you employ an exempt employee to perform the same or similar type of services as those involved in raising puppies, any juvenile canine socialization services the employee might perform at home are not volunteer services, but rather part of the employment relationship and work subject to the FLSA. If the employee remains exempt under the applicable duty and salary tests,¹² the employee’s salary could serve as compensation for any hours spent raising puppies at home, and no additional compensation would be required. *See* 29 U.S.C. § 213(a)(1); *see also* 29 C.F.R. §§ 541.600–.602(a); [WHD Op. Ltr. FLSA2026-5 \(May 28, 2026\)](#) (noting that “the FLSA does not require additional compensation beyond the predetermined salary based on the performance of additional or different work of any kind, whether voluntary or mandatory,” by an exempt employee); [WHD Op. Ltr. FLSA2005-14 \(Mar. 17, 2005\)](#).¹³

Further analysis would be necessary to determine whether the employee’s primary duty, and therefore exemption status, would be affected by serving as a juvenile canine caretaker. We assume for the purposes of this letter that juvenile canine socialization is non-exempt work. As explained in detail in [WHD Op. Ltr. FLSA2026-5 \(May 28, 2026\)](#), when an employee performs exempt and non-exempt work, the employee continues to meet the duty requirement for an exemption under 29 C.F.R. Part 541, if the employee’s primary duty remains the performance of exempt work. As explained above, an employee’s primary duty is the “principal, main, major or most important duty that the employee performs.” 29 C.F.R. § 541.700(a). An employee’s primary duty depends on all the facts of the situation, with the main focus on the employee’s job as a whole. *Id.* Determining an employee’s primary duty involves looking at several factors, including but not limited to: “the relative importance of the exempt duties as compared with other types of duties; the amount of time spent performing exempt work; the employee’s relative freedom from direct supervision; and the relationship between the employee’s salary and the

¹² Although you note that you classify certain employees—including veterinarians, trainers, and training directors—as exempt, presumably under section 13(a)(1) of the FLSA, your letter does not provide sufficient facts to evaluate whether these employees qualify for exemption. Thus, while this letter addresses generally how an otherwise exempt nonprofit employee may volunteer for his or her employer, and how volunteer activity might bear on exemption status, we do not opine whether the employees you identify are, in fact, properly exempt in the first instance.

¹³ With the exception of those employees for whom the salary requirements do not apply, such as those practicing medicine, as noted above. *See supra* note 9.

wages paid to other employees for the kind of nonexempt work performed by the employee.”
Id.

Because the employees you classify as exempt hold diverse positions, and because you do not describe the duties of the employees or the juvenile canine caretaker volunteers in detail, we are unable to evaluate whether the extra juvenile canine socialization work is likely to alter any otherwise exempt employee’s primary duty. Making this determination requires examining the employees’ exempt duties, non-exempt duties, and the duties involved in raising puppies at home.

CONCLUSION

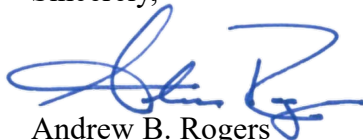
Under the circumstances presented, we believe your organization’s exempt employees can, freely and without coercion, volunteer to undertake, among other activities, tasks performed by volunteer juvenile canine caretakers, so long as the employee’s volunteer activities are not of the same or similar type as those the employee is employed to perform. Where the volunteer work is similar to the work you employ the employee to perform, an otherwise exempt employee may perform the additional juvenile canine socialization work as part of the employment relationship without additional compensation and without affecting their exemption from the FLSA, so long as their primary duty remains the performance of exempt work.

Although volunteers may significantly contribute to a nonprofit’s mission, nonprofit employers should exercise caution when engaging employees as volunteers to ensure they are not inadvertently misclassified under the Act. This may result in costly ramifications as a nonprofit could face potential liability, including back wages and overtime, liquidated damages, attorneys’ fees, among other things.

This letter is an official interpretation of the governing statutes and regulations by the Administrator of the Wage and Hour Division of the United States Department of Labor for purposes of the Portal-to-Portal Act. *See* 29 U.S.C. § 259. This interpretation may be relied upon in accordance with section 10 of the Portal-to-Portal Act, notwithstanding that after any such act or omission in the course of such reliance, the interpretation is “modified or rescinded or is determined by judicial authority to be invalid or of no legal effect.” *Id.*

We trust that this letter is responsive to your inquiry.

Sincerely,



Andrew B. Rogers
Administrator

***Note: The actual name(s) was removed to protect privacy in accordance with 5 U.S.C. § 552(b)(6).** You represent that you do not seek this opinion for any party that the Wage and Hour Division is currently investigating or for any litigation that commenced prior to your

request. This opinion is based exclusively on the facts and circumstances described in your request and is given based on your representation, express or implied, that you have provided a full and fair description of all the facts and circumstances that would be pertinent to our consideration of the question presented. The existence of any other factual or historical background not contained in your letter might require a conclusion different from the one expressed herein.